

## Attachment A

### AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE REGARDING DISCRETIONARY REGULATIONS (TC1100007)

**WHEREAS**, the Durham City Council wishes to amend certain provisions in the Unified Development Ordinance regarding discretionary regulations and other minor technical changes; and

**WHEREAS**, it is the objective of the Durham City Council to have the UDO promote regulatory efficiency and consistency and the health, safety, and general welfare of the community;

**NOW, THEREFORE**, be it ordained that Article 2, Review Authority; Article 3, Applications and Permits; Article 4, Zoning Districts; Article 5, Use Regulations; Article 6, District Intensity Standards; Article 7, Design Standards; Article 8, Environmental Protection; Article 9, Landscaping and Buffering; Article 10, Off-Street Parking and Loading; Article 11, Sign Standards; Article 12, Infrastructure and Public Improvements; Article 13, Additional Requirements for Subdivisions; Article 14, Nonconformities; Article 15, Enforcement; and Article 16, Definitions, of the Unified Development Ordinance is amended to make the following changes set forth in the strikethroughs and underlining below:

#### **PART 1**

##### **Sec. 2.1 Governing Bodies**

[Paragraphs within this section, but not listed, remain unchanged]

##### **2.1.2 Powers and Duties**

The governing bodies shall be responsible for final action regarding the following:

- G.** Vested rights determinations that require a public hearing pursuant to Sec. 3.20, Statutory Vested Rights Determination.

##### **Sec. 2.2 Joint City-County Planning Committee (JCCPC)**

[Paragraphs within this section, but not listed, remain unchanged]

##### **2.2.3 Powers and Duties**

- C.** The JCCPC shall be responsible for review and approval of the Administrative Guidelines established by the Planning Director governing neighborhood meetings pursuant to Sec. 3.2.3, Neighborhood Meeting; the guidelines for establishing Neighborhood Protection Overlays pursuant to Sec. 4.6.2, Establishment of Overlay; the *Landscape Manual* pursuant to paragraph 9.2.1, Landscape Manual; and the *Durham Design Manual*.

##### **Sec. 2.5 Historic Preservation Commission (HPC)**

[Paragraphs within this section, but not listed, remain unchanged]

#### **2.5.4 Powers and Duties**

##### **B. Demolition by Neglect**

For purposes of Sec. 3.18, Demolition by Neglect (City Only), the Historic Preservation Commission is designated a Planning Agency under GS 160A-361 and GS 153A-345, authorized to operate as a Board of Adjustment (BOA) and make quasi-judicial decisions under GS 160A-388(a), and GS 153A-321 for the administrative determinations described herein.

#### **2.5.5 Decisions**

- B.** The voting requirements applicable to the Board of Adjustment in Sec. 2.4.5, Board of Adjustment Decisions, shall be used for HPC decisions when the HPC is functioning as a Board of Adjustment under Sec. 3.18, Demolition by Neglect (City Only).

#### **Sec. 2.6 Other Advisory Bodies** [Text remains unchanged]

#### **Sec. 2.7 Durham City-County Planning Department**

[Paragraphs not listed remain unchanged]

##### **2.7.1 Establishment** [Text remains unchanged]

##### **2.7.2 Planning Director** [Text remains unchanged]

##### **2.7.3 Delegation of Authority** [Text remains unchanged]

##### **2.7.4 Powers and Duties**

- B.** The Planning Director or designee shall be responsible for reviewing and making recommendations regarding the following:
- 3.** Applications for major site plan review;
  - 4.** Applications for major preliminary plat review;
  - 5.** Applications for minor and major certificates of appropriateness;
  - 6.** Applications for special use permits;
  - 11.** Applications for Vested rights determinations requiring a public hearing pursuant to Sec. 3.20, Statutory Vested Rights Determination.
- C.** The Planning Director or designee shall be responsible for final action regarding the following:

3. Applications for subdivision review pursuant to Sec. 3.6, Subdivision Review;
- 4 Applications for site plans pursuant to Sec. 3.7, Site Plan Review;
- 5 Applications for common and way-finding signage plans;
- 6 Applications for home occupation permits;
- 7 Administrative certificates of appropriateness;
- 8 Petitions for demolition by neglect investigations;
- 9 Applications for limited use permits;
10. Applications for architectural review; and
11. Applications for temporary use permits.

**Sec. 2.8 Durham City-County Inspections Department** [Text remains unchanged]

**2.8.1 Establishment** [Text remains unchanged]

**2.8.2 Inspections Director** [Text remains unchanged]

**2.8.3 Delegation of Authority** [Text remains unchanged]

**2.8.4 Powers and Duties** [Text remains unchanged]

**Sec. 2.9 Other Departments** [Text remains unchanged]

**Sec. 2.10 Summary of Review Authority** [Text and portions of the table not shown remain unchanged]

Application or Permit	Sedimentation and Erosion Control Officer	Inspections Director	Planning Director		Historic Preservation Commission	Board of Adjustment	Planning Commission	Governing Body	Section
<b>Inspections Director Action</b>									
Floodplain Development Permit		D	R						Sec. 3.21
<b>Planning Director Action</b>									
Administrative Certificate of Appropriateness			D		<A>				Sec. 3.17
Demolition by Neglect (City Only)			D		<A>				Sec. 3.18
Limited Agriculture Permit (City Only)			D						Sec. 3.22
Architectural Review			D						Sec. 3.23
Administrative Site Plan Review	R	R	D						Sec. 3.7
Subdivision Review other than Major Preliminary Plat	R	R	D						Sec. 3.6
<b>Historic Preservation Commission Action</b>									
Certificate of Appropriateness			R		D	<A>			Sec. 3.17

<b>Board of Adjustment Action</b>									
Variance						<D>			Sec. 3.14
Appeal of Administrative Decision						<D>			Sec. 3.15
<b>Governing Body Action</b>									
Text Amendment			R				<R>	<D>	Sec. 3.19
Historic District/Landmark Designation			R		<R>		<R>	<D>	Sec. 3.16
Vested Rights Determination		R	R					<D>	Sec. 3.20
Major Site Plan Review	R	R	R					D	Sec. 3.7
Major Preliminary Plat	R	R	R					D	Sec. 3.6

R = Review or Recommendation

D = Decision

A = Appeal

< > = Public Hearing Required

\* Except as noted in the relevant Ordinance section.

### **Sec. 3.1 Interpretation of this Ordinance**

[Paragraphs not listed remain unchanged]

#### **3.1.1 Applicability**

##### **B. Interpretation Authority**

The Planning Director shall make all interpretations of this Ordinance, but shall not make interpretations regarding the following sections:

6. The Planning Director may defer interpretations of additional sections of this Ordinance to appropriate City and/or County officials.

#### **3.1.5 Appeal**

Final action on an official interpretation of this Ordinance by the Planning Director or designee may be appealed in accordance with Sec. 3.15, Appeal of Administrative Decision.

### **Sec. 3.2 Common Review Procedures**

[Paragraphs and tables not listed remain unchanged]

#### **3.2.1 Applicability**

##### **I. Variance**

##### **J. Appeal of Administrative Decision**

##### **K. Historic District/Landmark Designation**

##### **L. Certificate of Appropriateness**

##### **M. UDO Text Amendment**

##### **N. Statutory Vested Rights Determination**

##### **O. Floodplain Development Permit**

##### **P. Limited Agriculture Permit (City Only)**

##### **Q. Architectural Review**

#### **3.2.5 Notice and Public Hearings**

##### **A. Summary of Notice Required**

<sup>1</sup> Mailed notice shall be required whenever an applicant for a site plan is seeking approval of any of the modifications to standards specified in Sec. 3.7.3B, Major Site Plans, that are granted at the discretion of a governing body.

##### **B. Public Notice Requirements**

###### **1. Mailed Notice**

- a. The director of the appropriate department, or designee, shall notify by first class mail all property owners, as indicated by County tax listings of property ownership, within the applicable notification distance from the property under consideration as specified in the table below:

<sup>1</sup> Mailed notice shall be required whenever an applicant for a site plan is seeking approval of any of the modifications to standards specified in Sec. 3.7.3B, Major Site Plans, that are granted at the discretion of a governing body.

### **Sec. 3.3 Traffic Impact Analysis (TIA)**

[Paragraphs not listed remain unchanged]

#### **3.3.1 Applicability**

Unless exempted below, a traffic impact analysis (TIA) shall be required for changes of use to determine if roadway improvements will be required, zoning map changes utilizing a development plan, site plans, and preliminary plats that can be anticipated to generate at least 150 vehicle trips at the peak hour (as determined by Institute of Transportation Engineers Standards). Trips generated by separate developments meeting the criteria of Sec. 3.3.3, TIA Submission for Projects with Cumulative Impacts, shall be considered cumulatively.

#### **3.3.3 TIA Submission for Projects with Cumulative Impacts**

##### **A. Unified, Phased, or Otherwise Aggregated Developments**

1. Shares features such as site access or other roadways, design elements, or other infrastructure with nearby unbuilt, but pending developments evidenced by valid, approved site plans or preliminary plats, or active site plan or preliminary plat submittals; and,

#### **3.3.7 Coordination with Zoning Map Changes, Site Plans, and Preliminary Plats**

Transportation mitigation measures may be required to address issues raised by a TIA, or as part of the approval of a Transportation Special Use Permit (TSUP.) Such measures may include, but not be limited to, onsite and offsite improvements related to reduction of traffic impact on the surrounding road system, bicycle facilities, pedestrian movement, and the environment. These measures shall be conditions of development approval. Deletion or modification of these conditions shall require the same approval process that was required for the original project, unless the approved mitigation measure is deemed to conflict with NCDOT or City Transportation Department requirements, in which case they shall be modified to resolve the conflicts through submittal of a revised site plan or preliminary plat, as applicable.

### **Sec. 3.5 Zoning Map Change**

[Paragraphs not listed remain unchanged]

#### **3.5.1 Description**

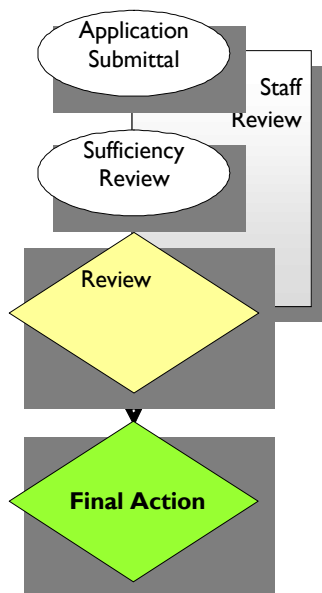
##### **C. Development Plans**

A development plan provides additional information with a zoning map change petition. The purposes of the development plan are set forth in Sec. 3.5.6, Development Plan. The development plan establishes the level of development that will be allowed on the property. Subsequent site plans or plats shall not deviate from the plan, unless otherwise allowed, or required under this Ordinance. Deviation may require a zoning map change, as established in

Sec. 3.5.12, Deviations from Approved Development Plans. Unless a development plan also functions as a site plan, it is not a site specific development plan. The right to develop pursuant to a development plan, whether approved under this Ordinance or any previous ordinance, accrues only for any portion of the plan for which a site plan or preliminary plat is approved, and then only for the period of validity specified in this Ordinance, or where a vested right is established pursuant to Sec. 3.20, Statutory Vested Rights Determination.

### Sec. 3.6 Subdivision Review

[Paragraphs not listed remain unchanged]



#### 3.6.3 No Subdivision without Plat Approval

- A. No subdivision of land within the jurisdiction of either the City or County may be filed or recorded with the Office of the Register of Deeds until it has been submitted to and approved by the Planning Director or designee, and until the approval is entered on the face of the plat.

#### **3.6.4 Conservation Subdivision Pre-Application Conference**

All applicants considering petitioning for a conservation subdivision shall schedule a pre-application conference with the Planning Director, or designee to discuss the procedures, standards, and regulations required for subdivision approval in accordance with the provisions of this Ordinance.

#### **3.6.7 Preliminary Plat Approval**

##### **B. Public Notice**

Any organization or individual that is registered to receive notice pursuant to Sec. 3.2.5D, Registration to Receive Notice, and is located within 1,000 feet of the site under consideration shall receive notice for any preliminary plat application involving criteria for major site plans pursuant to paragraph 3.7.3B, Major Site Plans. Notice shall be provided to each organization or individual in the manner specified in its registration information, which may be first class mail, electronic mail, or other manner offered by the Planning Director.

##### **C. Action by the Planning Director**

1. Staff review agencies shall complete review and transmit comments back to the Planning Director or designee.
2. If the applicant fails to submit revised plats in response to the comments of the staff review agencies within 90 days of receiving such comments from the Planning Director, or designee, the Planning Director shall consider the application to have been withdrawn by the applicant. An extension period may be granted by the Planning Director or designee.

##### **D. Action by the Approving Authority**

The preliminary plat shall be approved by the approving authority if it meets the following criteria:

1. Conforms with all the provisions and requirements of applicable adopted plans, including but not limited to the Comprehensive Plan, historic preservation plans, open space plans, greenways plans, transportation plans, gateway plans, corridor plans, collector street plans, and bicycle plans;
2. Conforms with all the provisions and requirements of this Ordinance; and
3. Conforms with all the provisions and requirements of other applicable ordinances not included in this ordinance.

##### **E. Reservation of Public Facility Sites and Lands**

**This section does not apply to the reservation of lands for public streets and roads.**

##### **H. Continuing Validity of Preliminary Plat**

3. Preliminary plat amendments shall not extend the validity of the original approved preliminary plat.

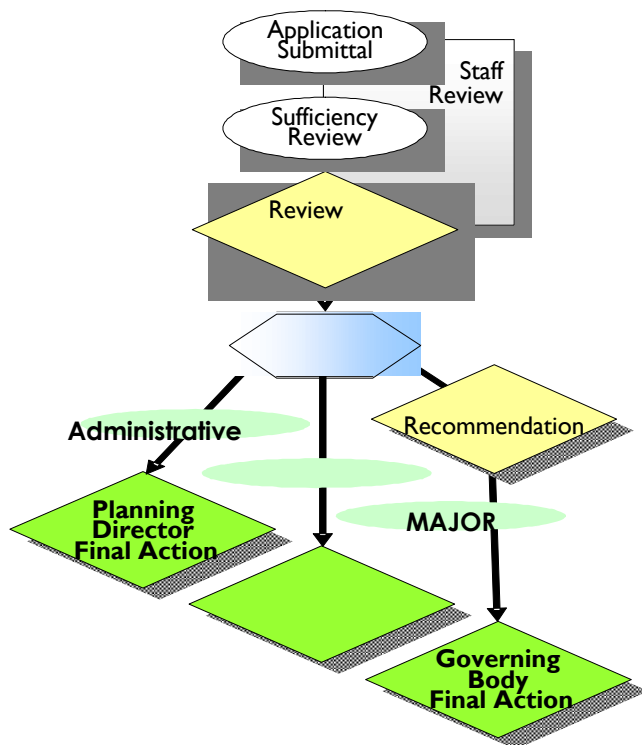
### 3.6.9 Waivers

For purposes of financing or refinancing development, it is sometimes necessary to subdivide a previously approved development complex (including but not limited to a shopping center, an office or industrial park, or a housing complex) originally located on a single parcel into two or more lots, where a subdivision would vary dimensional, parking, or landscaping requirements of this Ordinance. The Planning Director or designee is authorized to permit such subdivision to occur subject to the following criteria:

- A. A valid, approved site plan exists for the overall complex;
- B. The complex, in its entirety, satisfies all Ordinance requirements; and
- C. Each final plat created contains a note stating that the owners acknowledge that the individual parcel is a part of the named development complex, and that deeds of easement, restrictive covenants, and/or other legal documents necessary for the perpetual functioning of the development complex shall be executed and recorded with the final plat.

### Sec. 3.7 Site Plan Review

[Paragraphs not listed remain unchanged]





### **3.7.1 General**

Site plan review, when applicable, shall verify that proposed development:

- A.** Complies with all applicable Ordinance requirements;
- B.** Complies with all previously approved applicable plans, including open space and trails plans, and bicycle and pedestrian plans;
- C.** Provides for trash handling, recycling, grease bins, and other waste related facilities employed in the normal operation of the use;
- D.** Provides adequate locations of parking areas, and pedestrian and vehicular access points and circulation;
- E.** Provides adequate design of traffic patterns, traffic control measures, and street pavement areas, with provisions for maintaining traffic flows and reducing unfavorable effects of traffic on nearby properties;
- F.** Provides adequate stormwater facilities, water supply, sanitary sewer service, and fire protection, as evidenced by conformance with department standards, specifications, and guidelines;

- G. Complies with requirements for easements and dedications;
- H. Where a TIA has been submitted, accommodation for the traffic generated by the development with the existing or funded transportation system, or adequate traffic mitigation measures, are provided.

### **3.7.2 Applicability**

All proposed development or changes of use, except as indicated below, shall be subject to the site plan review process. The following are exempt from site plan review:

- A. Single-family and two-family development on existing single lots of record.
- B. Development that does not require review by any department for conformance with the standards of this Ordinance, or does not require a permit such as, but not limited to, fences or flagpoles.
- C. Change of use where no additions or exterior land improvements are proposed and the change of use:
  - 1. Does not require additional parking or stacking.
  - 2. Does not require additional landscaping.
  - 3. Does not require a Traffic Impact Analysis (TIA) or no improvements are required as a result of a TIA analysis.
  - 4. Only requires Architectural Review per Section 3.23.
- D. Development projects consisting only of improvements within the right-of-way, except for those located within a design district. In these instances, a separate site plan application can be filed or site plan review can occur through another technical review by the city or county for that development project.

### **3.7.3 Types of Site Plans**

#### **A. Administrative Site Plans**

The approving authority is the Planning Director or designee.

##### **1. Level 1**

Criteria:

- a. Requires only Planning Department review with no change in stormwater management; or
- b. The improvements consist solely of streetscape alterations.

##### **2. Level 2**

Criteria: Requires review by other departments in addition to the Planning Department with no change in stormwater management.

##### **3. Level 3**

Criteria: Stormwater management, or a change in stormwater management, is required or proposed.

##### **4. Level 4**

Criteria: A TIA is required.

#### **B. Major Site Plans**

##### **1. The approving authority is the Governing Body.**

##### **2. Criteria:**

- a. The request is for approval pursuant to a standard established in the Ordinance that requires Governing Body approval; or
- b. Involves the requirement of a major or transportation special use permit; or

- c. Is located in a Watershed Protection Overlay Critical Area (A), as defined in Sec. 4.11, Watershed Protection Overlay, with impervious surface that exceeds the maximum permitted by the Low Density Option under Sec. 8.7, Watershed Protection Overlay Standards.

**C. Site Plan Amendments**

1. The Planning Director, or designee, is authorized to approve minor changes to the approved site plan, resulting from field conditions or which result in an equivalent or better performance.
2. Significant changes to the approved site plan, such as but not limited to a change in access points, increased square footage, relocation of buildings or parking areas, relocation of stormwater facilities, and changes of use that require different development standards, shall be resubmitted for site plan approval as a new site plan application.
3. A site plan amendment request shall clearly identify the elements for which approval is sought in both text and graphic form. Only those elements so identified shall be reviewed and considered for approval. If any element of an approved plan is changed but not identified, the amendment request shall be denied in its entirety or, if already approved, the amendment shall be deemed null and void in its entirety.
4. Site plan amendments to plans approved under the 1994 Merged Zoning Ordinance, as amended, shall follow approval procedures of this paragraph 3.7.3C.

**3.7.4 Conformance to an Approved Development Plan**

**A site plan shall conform to an approved development plan except as required under paragraph 3.5.12D, Changes Required by Ordinance or Other Law, or as authorized under paragraph 3.5.12, Deviations from Approved Development Plans, and paragraph 3.5.6C, Authority of the Planning Director.**

**3.7.5 Site Plan Requirements**

- A. An application for site plan review shall be submitted in accordance with paragraph 3.2.4, Application Requirements.
- B. Site plan documents shall contain the information required within the site plan checklists maintained by the Planning Department unless expressly exempted by another provision of this Ordinance, or unless the Planning Director or designee makes the determination that less detailed information is adequate for review.
- C. No processing or review of a site plan will proceed without the required information.
- D. Site plan applications shall utilize applicable forms maintained by the applicable City, County, or State department or agency.
- E. A site plan shall conform to an approved development plan except as required under Sec.3.5.12D, Changes Required by Ordinance or Other Law, or as authorized under Sec. 3.5.12, Deviations from Approved Development Plans, and Sec. 3.5.6C, Authority of the Planning Director.
- F. All requirements imposed through a site plan shall run with the land and shall apply against any owner, subsequent owner, or occupant.

### **3.7.6 Submittal of Corrections**

- A. Corrections or modifications for site plans shall be returned to the Planning Director or designee within 90 days or the site plan application shall be considered withdrawn.
- B. Corrections or modifications for site plans submitted to address a Notice of Violation shall be returned to the Planning Director or designee within 30 days or the site plan application shall be considered withdrawn.
- C. An extension period may be granted by the Planning Director or designee.

### **3.7.7 Final Approval**

- A. Site plans can be considered for final approval only after all comments have been satisfied as determined by the applicable reviewing department or agency.
- B. Approved plans shall be stamped, signed, and dated.

### **3.7.8 Issuance of Building Permits**

**After an approved copy of the site plan is received by the Inspections Director or designee, building permits may be issued for the project. No building permit may be issued until the required site plan is approved.**

### **3.7.9 Inspections of Required Improvements**

Inspections during the installation of site improvements shall be made by the entity responsible for such improvements as required to certify compliance with approved site plans. No improvements shall be accepted for maintenance by the governing jurisdiction unless and until the requirements regarding public improvements have been met.

### **3.7.10 Issuance of Certificate of Compliance**

Improvements specified in the approved plan shall be made prior to issuance of a certificate of compliance unless an extension of compliance has been prepared and approved in conformance with the requirements of this Ordinance.

### **3.7.11 Coordination with Major Special Use Permits**

Applications for major special use permits may be submitted concurrently with a site plan. However, decisions shall be rendered with a separate motion.

### **3.7.12 Continuing Validity of Site Plans**

- A. An approved site plan shall retain its validity for four years, and shall remain valid if:
  - 1. A permit to begin development pursuant to the site plan, such as a land disturbance permit, a building permit, or an improvement permit, has been issued and has remained continuously valid thereafter; and,
  - 2. Building or land disturbing activity has begun on the property.
- B. The issuance of a building permit or a certificate of compliance within a phase of a project shall not extend the validity of the site plan for the unbuilt portions of that phase or any future phases of the project for which building permits have not been issued.
- C. Requests for extensions of validity for site plans approved under the previous 1994 Merged Zoning Ordinance, as amended, shall comply with the review criteria specified within that ordinance. The approving authority, however, shall be the Planning Director or designee, utilizing the same findings specified in that Ordinance.
- D. Site plan amendments shall not extend the validity of the original, approved site plan.

### **Sec. 3.9 Special Use Permit**

[Paragraphs not listed remain unchanged]

#### **3.9.1 Applicability**

C. A major special use permit shall be required for all major special uses as set forth in the use table in Sec. 5.1, Use Table, , for spray irrigation in a conservation subdivision pursuant to Sec. 6.2.4, Conservation Subdivision, and as specified elsewhere in this Ordinance. Major special use permits require approval by the appropriate governing body.

#### **3.9.14 Appeal**

Appeal from final action can be taken by filing a petition for *certiorari* with the Durham County Superior Court.

### **Sec. 3.10 Sign Permit**

[Paragraphs not listed remain unchanged]

#### **3.10.1 Applicability**

B. Internally oriented signs not legible from the public right-of-way shall not require a sign permit; however, electrical or other permits may be required.

#### **3.10.7 Appeal**

Final action on a sign permit can be appealed in accordance with Sec. 3.15, Appeal of Administrative Decision.

### **Sec. 3.11 Common and Way-Finding Signage Plans**

[Paragraphs not listed remain unchanged]

#### **3.11.3 Action by the Planning Director**

A. The Planning Director, or designee, is the approving authority for common and way-finding signage plans.

#### **3.11.5 Appeal**

Final action on a common or way-finding signage plan can be appealed in accordance with Sec. 3.15, Appeal of Administrative Decision.

### **Sec. 3.12 Temporary Use Permit**

[Paragraphs not listed remain unchanged]

#### **3.12.5 Appeal**

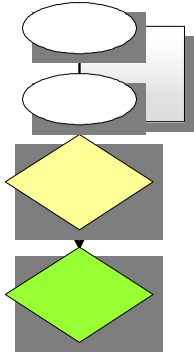
Final action on a temporary use permit can be appealed in accordance with Sec. 3.15, Appeal of Administrative Decision.

### **Sec. 3.13 Home Occupation Permit**

[Paragraphs not listed remain unchanged]

#### **3.13.5 Appeal**

Final action on a home occupation permit can be appealed in accordance with Sec. 3.15, Appeal of Administrative Decision.



## **Sec. 3.14 Variance**

[Paragraphs not listed remain unchanged]

### **3.14.1 Applicability** [Text remains unchanged]

### **3.14.2 Pre-Application Conference** [Text remains unchanged]

### **3.14.3 Application Requirements** [Text remains unchanged]

### **3.14.4 Notice and Public Hearings** [Text remains unchanged]

### **3.14.5 Burden of Proof** [Text remains unchanged]

### **3.14.6 Action by the Planning Director** [Text remains unchanged]

### **3.14.7 Action by the Board of Adjustment** [Text remains unchanged]

### **3.14.8 Findings** [Text remains unchanged]

### **3.14.9 Watershed Protection** [Text remains unchanged]

### **3.14.10 Environmental Protection**

- A.** At the request of a property owner, and except as otherwise specified in this ordinance, the Board of Adjustment may vary the requirements of Article 8, Environmental Protection Standards, in accordance with the procedures of this section. The Board of Adjustment shall not vary the requirements of Sec. 8.4, Floodplain and Flood Damage Protection Standards or the requirements of Sec. 8.5, Riparian Buffer Protection Standards. In addition to the findings required in Sec. 3.14.8, Findings, the Board of Adjustment in granting any variance shall make the following additional findings.

### **3.14.11 Appeal**

Appeal from final action by the Board of Adjustment on a variance can be taken by filing a petition for *certiorari* with the Durham County Superior Court.

## **Sec. 3.15 Appeal of Administrative Decision**

[Paragraphs not listed remain unchanged]

### **3.15.1 Applicability** [Text remains unchanged]

- 3.15.2 Application Requirements** [Text remains unchanged]
- 3.15.3 Deadline for Submission of Application** [Text remains unchanged]
- 3.15.4 Notice and Public Hearings** [Text remains unchanged]
- 3.15.5 Action by the Planning Director** [Text remains unchanged]
- 3.15.6 Action by the Board of Adjustment** [Text remains unchanged]
- 3.15.7 Effect of Appeal** [Text remains unchanged]
- 3.15.8 Appeal**

Appeal of the Board of Adjustment action can be taken by filing a petition for *certiorari* with the Durham County Superior Court.

## **Sec. 3.16 Historic District or Landmark Designation**

[Paragraphs not listed remain unchanged]

- 3.16.1 Applicability** [Text remains unchanged]
- 3.16.2 Initiation of Request** [Text remains unchanged]
- 3.16.3 Designation of an Historic District** [Text remains unchanged]

### **A. Initiation of an Historic District Preservation Plan**

- 2. The HPC shall conduct a preliminary consideration of the request and, at this time, may make the findings indicated in Sec. 3.16.1B above. The HPC shall report its findings to the Planning Director, or designee. If the decision of the HPC is negative, the Planning Director, or designee, shall report the negative recommendation to the governing body, as an informational item.
- 3. If the HPC finds that the proposed historic district meets the requirements of Sec.3.16.1B above, then the Planning Director, or designee, shall prepare a Historic District Preservation Plan, in accordance with Sec. 3.16.3B below.

### **3.16.4 Designation of an Historic Landmark** [Text remains unchanged]

### **E. Adoption of an Ordinance of Designation**

- 5. A note that, for each building, structure, site, area or object, the waiting period set forth in Sec. 3.17.3, Certificates of Appropriateness for Demolition, Destruction and Relocation, of this Ordinance shall be observed prior to its demolition; and

- 3.16.5 Designation of a Landmark Sign** [Text remains unchanged]
- 3.16.6 Repeal of Historic District or Historic Landmark Designation** [Text remains unchanged]

## **Sec. 3.17 Certificate of Appropriateness**

[Paragraphs not listed remain unchanged]

- 3.17.1 Applicability** [Text remains unchanged]
- 3.17.2 Circumstances Not Requiring Certificates of Appropriateness** [Text remains unchanged]
- 3.17.3 Certificates of Appropriateness for Demolition, Destruction and Relocation** [Text remains unchanged]
- 3.17.4 Master Certificates of Appropriateness** [Text remains unchanged]
- 3.17.5 Administrative Certificate of Appropriateness** [Text remains unchanged]
- 3.17.6 Application Requirements** [Text remains unchanged]
- 3.17.7 Notification of Affected Property Owners** [Text remains unchanged]
- 3.17.8 Notification of the Commission** [Text remains unchanged]

### **3.17.9 Action by the Historic Preservation Commission**

- D.** Prior to final action on an application for a certificate of appropriateness in an historic district, the HPC, using the principles and design review criteria adopted pursuant to Sec. 3.16.3B, Historic District Preservation Plan, shall make findings of fact indicating the extent to which the application is or is not consistent with the historic character and qualities of the historic district.
- E.** Prior to final action on an application for a certificate of appropriateness for an historic landmark, the HPC, using the principles and design review criteria adopted pursuant to Sec. 3.16, Historic District or Landmark Designation, shall make findings of fact indicating the extent to which the application is or is not consistent with the principles and design review criteria.
- F.** The HPC may not deny a certificate of appropriateness for demolition except as specified in Sec. 3.17.3, Certificate of Appropriateness for Demolition, Destruction and Relocation.

**3.17.10 Approval Criteria for Historic Districts** [Text remains unchanged]

**3.17.11 Approval Criteria for Historic Landmarks** [Text remains unchanged]

**3.17.12 Deferral of Application** [Text remains unchanged]

**3.17.13 Time Limits**

Final action shall be taken upon any application for a certificate of appropriateness within 180 days after the complete application is submitted to the Planning Director or designee. Such 180-day time period shall include any continuance or deferred consideration by the HPC or deferral granted as requested by the applicant under Sec. 3.17.12, Deferral of Application. If final action is not taken within such 180-day time period, the application shall be deemed approved. A certificate of appropriateness shall expire if a building permit or other development permit has not been obtained within one year after the effective date of the certificate of appropriateness and remains continuously valid or if work not requiring a permit has not been initiated.

**3.17.14 Submission of New Application** [Text remains unchanged]

**3.17.15 Local and State Coordination** [Text remains unchanged]

**3.17.16 Specific Enforcement** [Text remains unchanged]

**3.17.17 Appeal** [Text remains unchanged]

### **Sec 3.18 Demolition by Neglect (City Only)**

[Paragraphs not listed remain unchanged]

**3.18.1 Applicability** [Text remains unchanged]

**3.18.2 Process and Administration** [Text remains unchanged]

#### **C. Appeal of Director's Determination**

If the property owner disagrees with the Director's determination, the owner can appeal and may request a *de novo* hearing before the HPC. The request shall be delivered to the Planning Department, in writing, within 30 days of receipt of the Director's determination. The HPC shall hold a quasi-judicial hearing on the issue of whether demolition by neglect is occurring on the property. Procedures that would be followed by the Board of Adjustment (BOA) in a quasi-judicial proceeding shall be used. The Director's determination shall be considered an administrative determination, which has been appealed to the HPC, as the designated Planning Agency under GS 160A-388 or 153A-321 and all procedures applicable



to the Board of Adjustment in GS 160A-388 and GS 153A-345 shall apply to such hearings. The HPC's determination to overturn the administrative determination shall be passed by the standards established in Sec. 2.4.5. The HPC's written decision shall include findings of fact and conclusions regarding demolition by neglect consistent with this subsection. It shall be delivered to the appealing party by certified mail, return receipt requested. Appeal to the Courts can be had by *certiorari* as is provided for an appeal of a Board of Adjustment decision. If the decision is not appealed it shall be considered a final decision subject to enforcement with no rights of appeal.

**D. Safeguards from Undue Economic Hardship**

**5. Plan to Relieve Economic Hardship**

A recommended plan to relieve the economic hardship shall include, but is not limited to, property tax relief as may be allowed under North Carolina law, loans or grants from the City, the County, or other public, private, or nonprofit sources, acquisition by purchase or eminent domain, changes in applicable zoning regulations, or relaxation of the provisions of this Article sufficient to mitigate the undue economic hardship. The Director, or designee, shall issue an order regarding the time period during which the property should be repaired, taking into account the provisions of the recommended plan.

**F. Penalties and Remedies**

Enforcement of this Article shall be by any one or more of the following methods, and the institution of any action under any of these methods shall not relieve any party from any other civil or criminal proceeding prescribed for violations and prohibitions.

**2. Order of Abatement**

The City can apply for and the court may enter an order of abatement. An order of abatement may direct that improvements or repairs be made, or that any other action be taken that is necessary to bring the property into compliance with this Article. Whenever the party is cited for contempt by the court and the City has executed the order of abatement, the City shall have a lien on the property for the cost of executing the order of abatement.

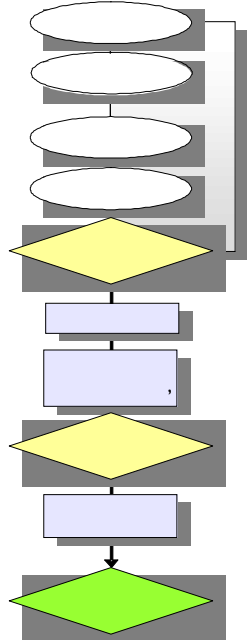
**3. Civil Penalty**

Civil penalties can be assessed for failure to comply with a final administrative determination or an un-appealed HPC decision under the provisions and guidelines for assessing such penalties for zoning code violations. Prior to imposing a civil penalty the City-County Planning Department shall deliver a written notice by personal service or by registered mail or by certified mail, return receipt requested, to the person responsible for the violation indicating the nature of the violation and ordering corrective action. Where the violation is the failure to remedy a condition of neglect within the time periods provided by the Director, or designee, or the HPC no additional time period for compliance need be given. The notice shall include information regarding the possible assessment of civil penalties and other possible enforcement actions. If this notice is appealed to the Board of Adjustment, the Board shall not rehear any issue that was heard by the HPC or could have been so heard had an appeal to the HPC been made. Rather, the Board of Adjustment shall limit the scope of its review to whether there has

been compliance with the Director's determination or the HPC's determination, as applicable.

### **Sec. 3.19 Text Amendment**

[Paragraphs not listed remain unchanged]



#### **3.19.1 General**

- A. The governing bodies are the approving authority for amendments to the text of this Ordinance.

#### **3.19.2 Action by the Planning Director**

- B. When a text amendment is initiated, the Planning Director, or designee, shall draft an appropriate ordinance and present that ordinance to the Planning Commission for review and recommendation at a public hearing.

#### **3.19.3 JCCPC Review** [Text remains unchanged]

#### **3.19.4 Action by the Planning Commission**

##### **C. Expedited Hearing**

1. If the governing body has set an expedited hearing concerning a request, in accordance with Sec. 3.19.5B, Expedited Hearing, a public hearing before the Commission shall be held at the first available hearing date or prior to the hearing before the governing body.

#### **3.19.5 Action by Governing Body** [Text remains unchanged]

##### **A. General Procedures**

2. Except for an emergency moratorium or a short term moratorium of 60 or fewer days (which shall comply with the provisions of Sec. 3.19.6, Development Moratoria), notice and public hearing requirements shall be in accordance with Sec. 3.2.5, Notice and Public Hearings.

#### **3.19.6 Development Moratoria** [Text remains unchanged]

## **F. Extensions**

A moratorium shall only be extended upon compliance with NCGS 160A-381(e) and NCGS 153A-340(h) and the existence of new facts and conditions warranting an extension.

## **G. Emergency Moratorium**

In the event that there is an imminent and substantial threat to public health or safety, an ordinance imposing an emergency moratorium can be considered by a governing body without prior resolution or public notice of the hearing on such moratorium.

## **Sec. 3.20 Statutory Vested Rights Determination**

[Paragraphs not listed remain unchanged]

### **3.20.1 Applicability** [Text remains unchanged]

### **3.20.2 Application Requirements**

- C. Landowners seeking zoning vested rights on plats, special use permit applications, or other plans that would not normally receive site plan approval, can apply for vested rights protection through submittal of an application which contains the identical information, fee, and plans required for a complete site plan application and an additional fee for a vested rights public hearing.

### **320.3 Action by the Planning Director** [Text remains unchanged]

### **3.20.4 Action by the Governing Body** [Text remains unchanged]

### **3.20.5 Effect of Zoning Vested Rights** [Text remains unchanged]

### **3.20.6 Duration** [Text remains unchanged]

### **3.20.7 Termination** [Text remains unchanged]

### **3.20.8 Annexation** [Text remains unchanged]

### **3.20.9 Limitations** [Text remains unchanged]

## **Sec. 3.21 Floodplain Development Permit**

[Paragraphs not listed remain unchanged]

### **3.21.1 Applicability** [Text remains unchanged]

### **3.21.2 Floodplain Administrator**

#### **B. Duties and Responsibilities**

6. Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) of all attendant utilities of all new or substantially improved structures, in accordance with the certification requirements in Sec. 3.21, Floodplain Development Permit;
7. Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures and all utilities have been floodproofed, in accordance with the certification requirements in Sec. 3.21, Floodplain Development Permit;
8. Obtain actual elevation (in relation to mean sea level) of all public utilities, in accordance with the certification requirements in Sec. 3.21, Floodplain Development Permit;
9. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the certification requirements in Sec. 3.21, Floodplain Development Permit and Sec. 8.4.3, Standards;

### **3.21.3 Base Flood Elevations** [Text remains unchanged]

#### **3.21.4 Application Requirements**

**A.1.** A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

- e. the Base Flood Elevation (BFE) or future conditions flood elevation where provided as set forth in Sec. 8.4.2, Applicability; Sec. 3.21.2.B (11 and 12), Duties and Responsibilities; or Sec. 8.4.3, Standards;

**3.21.5 Floodplain Development Permit Data Requirements** [Text remains unchanged]

**3.21.6 Certification Requirements** [Text remains unchanged]

#### **Sec. 3.22 Limited Agriculture Permit (City Only)**

[Paragraphs not listed remain unchanged]

**3.22.1 Applicability** [Text remains unchanged]

**3.22.2 Application Requirements** [Text remains unchanged]

**3.22.3 Action by the Planning Director**

Upon review of the application and subject to the requirements of Sec. 3.22.2, Application Requirements, the Planning Director or designee shall approve the limited agriculture permit provided the limited agriculture meets all requirements of this Ordinance, except that misrepresentation including forgery by an applicant shall result in permit denial.

**3.22.4 Expiration and Revocation** [Text remains unchanged]

**3.22.5 Appeal**

Final action on a limited agriculture permit can be appealed in accordance with Sec. 3.15, Appeal of Administrative Decision.

#### **Sec. 3.23 Architectural Review**

[Paragraphs not listed remain unchanged]

**3.23.1 Applicability**

The review procedures described below apply to changes to building elevations where compliance with architectural standards is required, but no site plan approval or certificate of appropriateness is otherwise required. The requirements of paragraph 3.23.2B below also apply where architectural drawings are required for site plan approval.

**3.23.2 Application Requirements** [Text remains unchanged]

**3.23.3 Action by the Planning Director**

Upon review of the application and subject to the requirements of Sec. 3.23.2, Application Requirements, the Planning Director or designee shall approve the architectural review application provided the design meets all applicable requirements of this Ordinance. An architectural review approval shall expire after four years unless a building permit or other development permit has been issued and remains continuously valid or if work not requiring a permit has been initiated, except that an architectural review application that proposes amending an approved site plan shall be considered a site plan amendment under Sec. 3.7.3C, Site Plan Amendments, and its approval shall expire at the same time as the approved site plan as amended.

#### **Sec. 3.24 Design Special Use Permit (DSUP)**

[Paragraphs not listed remain unchanged]

- 3.24.1 Requirements**[Text remains unchanged]
- 3.24.2 Process** [Text remains unchanged]
- 3.24.3 Criteria for Approval** [Text remains unchanged]

## **Sec. 4.6 Neighborhood Protection Overlay (-P)**

[Paragraphs not listed remain unchanged]

### **4.6.2 Establishment of Overlay**

- A.** A Neighborhood Protection Overlay may only be established as both a zoning map change in accordance with the requirements of Sec. 3.5, Zoning Map Change, to reflect the boundaries of the designated overlay, and a text amendment in accordance with the requirements of Sec. 3.19, Text Amendment, to codify the standards established within the overlay.

### **4.6.3 Modification of Standards**

- A.** A Neighborhood Protection Overlay may allow for the modification of any of the following standards within this Ordinance:
  - 4.** Tree protection and tree coverage standards in Article 8, Environmental Protection;
  - 5.** Landscaping and buffering standards in Article 9, Landscaping and Buffering; or
  - 6.** Sign standards in Article 11, Sign Standards.

### **4.6.4 Design Guidelines**

Where appropriate, a Neighborhood Protection Overlay may require the application of specific design guidelines in the review of development. Such guidelines shall be established as part of the overlay district at the time of adoption, and implemented through review and approval of site plans pursuant to Sec. 3.7, Site Plan Review, or architectural review pursuant to Sec. 3.23, Architectural Review.

## **4.6.5 Tuscaloosa-Lakewood Neighborhood Protection Overlay**

### **C. General Standards**

#### **1. Landscaping**

This section shall apply to construction of any primary structure.

- a.** Trees, other than *Pinus* genus, located within required yards shall be retained unless removal is required to accommodate vehicular and pedestrian access or utilities, or the following is demonstrated by a certified arborist:
  - (1) The tree is determined to be unhealthy; or
  - (2) The tree would not survive construction activity.
- b.** A minimum of 3% tree coverage, met through preservation, replacement, or a combination thereof per Sec. 8.3, Tree Protection and Tree coverage, is required regardless of the underlying zoning district.
- c.** For single-family development, the above requirements are applicable until a Certificate of Compliance has been issued for the residence on an individual single-family lot.

### **D. Single-Family Residential Structures and Duplexes**

#### **2. Building Design**

- b. New primary structures shall not have the same elevation with the same architectural features as existing primary structures, or those in process of being built, on the same block face. Review and approval of elevations through architectural review pursuant to Sec. 3.23, Architectural Review, shall be required prior to issuance of a building permit. The following shall be demonstrated:
  - (3) If no more than two primary structures exist on a block face, then the context area for determining the above criteria shall be extended to include the nearest block faces within the neighborhood protection overlay, in all directions, with more than two structures.

#### **E. Multiple-Family Residential**

##### **1. Building Design**

- a. New primary structures shall maintain a single-family detached residential appearance and scale. Residential appearance and scale shall expressly include details from residential uses within the context area as defined in Section 6.8.4A, Context Area. Review and approval of elevations and other design details through site plan review pursuant to Sec. 3.7, Site Plan Review, or architectural review pursuant to Sec. 3.23, Architectural Review, as applicable, shall be required prior to the issuance of a building permit or site plan approval as applicable. Such details shall include the following features:
  - b. If no more than two primary structures exist within the context area, then the context area for determining the above criteria shall be extended to include the nearest block faces within the neighborhood protection overlay, in all directions, with at least two structures.

#### **F. Non-Residential Uses and Structures**

##### **2. Building Design**

- a. Any reconstruction, additions and/or renovations to structures originally designed for residential use but converted to non-residential use, shall maintain a single-family detached residential appearance. Residential appearance shall expressly include details from residential structures, or former residential structures, within the context area as defined in Section 6.8.4A, Context Area. Review and approval of elevations and other design details through site plan review pursuant to Sec. 3.7, Site Plan Review, or architectural review per Sec. 3.23, Architectural Review, as applicable, shall be required prior to the issuance of a building permit or site plan approval as applicable. Such details shall include the following features:
  - b. If no more than two primary structures exist within the context area, then the context area for determining the above criteria shall be extended to include the nearest block faces within the neighborhood protection overlay, in all directions, with at least two structures.

#### **Sec. 4.9 Major Transportation Corridor Overlay (-MTC)**

[Paragraphs not listed remain unchanged]

##### **4.9.3 Buffer Requirements**

##### **C. Permitted Activity in Buffer Area**

#### **D. Adjustments to the Required Buffer**

1. Within areas of I-85 MTC Overlay where the required buffer width is identified as 100 feet in Sec. 4.9.3.B, Buffer Width, the buffer width can be reduced to 50 feet if the following conditions are met:

#### **Sec. 4.10 Historic Districts Overlay (-H)**

[Paragraphs not listed remain unchanged]

##### **4.10.2 Designation**

B. Procedures for designation of Historic District Overlays shall be found in Sec. 3.16, Historic or Landmark Designation.

#### **Sec. 5.2 Use Categories**

[Paragraphs not listed remain unchanged]

##### **5.2.1 In General**

##### **F. Accessory Uses**

Accessory uses are allowed by right in conjunction with a principal use unless otherwise stated elsewhere in these regulations. Some listed accessory uses can also be considered accessory structures. No accessory use shall be established on a site without a principal use.

#### **Sec. 5.3 Limited Use Standards**

[Paragraphs not listed remain unchanged]

##### **5.3.2 Residential Use Standards**

##### **C. Family Care Homes and Group Homes**

###### **2. Group Homes**

- a. The home shall meet all State requirements, and all applicable housing and building code requirements.
- b. The facility shall be separated by a minimum of 1,125 linear feet from a group home or family care home facility. Measurements shall be made as a straight line measurement from the closest point on the property line of each facility.

##### **5.3.3 Public and Civic Use Standards**

##### **C. Club or Lodge (Non-profit)**

1. All structures shall be located at least 30 feet from property lines. This distance can be reduced to 15 feet if a masonry wall at least six feet high is provided.
3. In residential districts, parking located between the structure and the street shall be set back from the right-of-way beyond the minimum or maximum street yard, as applicable.

##### **D. Correctional Facility**

##### **E. Day Care Facility**

2. In residential districts, parking located between the structure and the street shall be set back from the right-of-way beyond the minimum or maximum street yard, as applicable.
3. The facility shall meet the following space requirements if children are the primary clients of the use:

**a. Outdoor Play Space**

- (1) There shall be 100 square feet of outdoor play space per child including children at the facility for after school care, but excluding children less than 12 months of age. This outdoor play space can be as little as 75 square feet with an increase in the amount of indoor play space provided on a one-to-one basis. Parking and loading areas may not be counted toward play spaces.
- (4) Outdoor play space located between the structure and the street shall be set back beyond the minimum or maximum street yard, as applicable.

**F. Government Facilities**

3. In residential districts, parking located between the structure and the street shall be set back from the right-of-way beyond the minimum or maximum street yard, as applicable.

**G. Museum**

3. In residential districts, parking located between the structure and the street shall be set back from the right-of-way beyond the minimum or maximum street yard, as applicable.

**H. Parks and Open Areas**

**1. Vehicle Use Area Landscaping Standards**

On sites greater than two acres, the shrub requirements of paragraph 9.8.3B.3, Shrubs, and paragraph 9.8.2B, Vehicular Use Areas Visible from Adjacent Property, shall not apply if the vehicle use areas are located 100 feet or more from property lines, and at least 25% of the total site area is left in natural vegetation.

**2. Setbacks**

- a. For all structures, picnic areas, playgrounds, and unlighted basketball courts and athletic fields:
  - (1) Except in Design Districts, a 50-foot setback shall be maintained from property lines adjacent to residentially zoned or used property.
  - (2) In Design Districts, a 15-foot setback shall be maintained instead of the required build-to line in paragraphs 6.12.3A.1 and 6.12.4A.1, Building Placement.
  - (3) Through the issuance of a minor special use permit pursuant to Sec. 3.9, Special Use Permits, the setback may be reduced to as little as ten feet. The following review factors shall be considered in addition to those within paragraph 3.9.8B, Review Factors: building orientation; topography; distance to offsite improvements; physical obstructions; developability of the park site ; and environmental constraints.
- b. For lighted facilities such as tennis courts, basketball courts, and athletic fields:
  - (1) Except in Design Districts, a 100-foot setback shall be maintained from property lines adjacent to residentially zoned or used property.
  - (2) In Design Districts, a 30-foot setback shall be maintained instead of the required build-to line in paragraphs 6.12.3A.1 and 6.12.4A.1, Building Placement.



- (3) Through the issuance of a minor special use permit per Sec. 3.9, Special Use Permits, the setback may be reduced with measures used to reduce light and glare onto adjacent residentially zoned or used property. Possible measures include, but are not limited to directional lighting, lower fixture heights, berms, vegetation, and fences. In addition, documentation shall be provided from a registered professional with experience in lighting certifying that the lighting does not exceed 0.5 foot-candle at the property line of adjacent residentially zoned or used properties.

**J. Places of Worship**

Places of worship shall be permitted in accordance with the use table in Sec. 5.1, Use Table, subject to the following:

In residential districts, parking located between the structure and the street shall be set back from the right-of-way beyond the minimum or maximum street yard, as applicable.

**K. Schools- Elementary, Middle, or High**

4. In residential districts, parking located between the structure and the street shall be set back from the right-of-way beyond the minimum or maximum street yard, as applicable.

**L. TV/HDTV/AM/FM Broadcast Antennae**

4. A landscaped buffer shall surround the base of the broadcast antenna equipment compound. Existing trees and shrubs on the site can be used pursuant to Sec. 9.3, Existing Vegetation Credits for Required Landscaping, or paragraph 9.4.4, Natural Buffers, as applicable. Grading shall be limited only to the area necessary for the new broadcast antenna.

**M. Utility Facilities**

1. Utility facilities in residential areas or adjoining residential uses shall maintain residential setbacks, be fenced (unless totally enclosed with a structure), and either be screened from view or designed to have a residential appearance.
2. In residential districts, parking located between the structure and the street shall be set back from the right-of-way beyond the minimum or maximum street yard, as applicable.

**N. Wireless Communication Facilities for Transmitting and Receiving Electronic Signals (WCFs)**

**13. Freestanding Concealed**

**a. Standards**

**(3) Buffers**

A landscaped buffer consistent with the requirements of Sec. 9.4, Project Boundary Buffers, shall surround the base of the WCF equipment compound. Existing trees and shrubs on the site can be used pursuant to Sec. 9.3, Existing Vegetation Credits for Required Landscaping, or paragraph 9.4.4, Natural Buffers, as applicable. On sites in residential districts adjoining public rights-of-way an opaque fence consistent with the requirements of Section 9.9, Fences and Walls, shall surround the WCF equipment compound.

**(4) Aesthetics**

Freestanding concealed WCFs shall be designed so as to be compatible with adjacent structures and landscapes, with specific design considerations as to height, scale, color and texture.

**b. Approval Authority**

**(1) Generally**

The Planning Director or designee shall be responsible for the approval of freestanding concealed WCFs, unless the WCF is proposed to be located within 300 feet of a designated State of North Carolina Scenic Byway.

**5.3.4 Commercial Use Standards**

**D. Bed and Breakfasts**

3. There shall be no substantial modifications to the exterior appearance of the structure; however, fire escapes, handicapped entrances and other features required by building or fire codes can be added to protect public safety.

**L. Firing Range, Outdoor**

2. Outdoor ranges shall be prohibited within one mile of existing local airports, heliports, and helistops. The location of approved landing and take-off zones beyond the one mile boundary shall warrant an extension of the prohibition to ensure the safety of aircraft.
6. The range shall have backstops and embankments which meet the dimensional standards listed below. Alternatives to these standards may be approved through the issuance of a minor special use permit pursuant to Sec. 3.9, Special Use Permit.

**a. Backstop standards for ranges up to 900 feet in length:**

The range shall have an earth embankment not less than 25 feet in height and not less than 10 feet in thickness at the top along the entire length of the target line to serve as a backstop. The earth embankment shall retain a slope of 35 degrees from perpendicular or be terraced with timber or log retaining walls. Such embankment shall be topped with an earth filled double fence barricade not less than 15 feet in height and not less than three feet in thickness at the top. The required backstop can be either a natural terrain feature or a man made earth embankment. In the case of a natural terrain feature, a topographic map at a scale of not less than one inch = 200 feet and two foot contour intervals showing the terrain feature shall be submitted with the initial application.

**M. Golf Course, Country Club, Swim Club, Tennis Club**

2. In residential districts, parking located between the structure and the street shall be set back from the right-of-way beyond the minimum or maximum street yard, as applicable.

**O. Manufactured Home Sales**

6. In addition to the signs typically allowed in the district, each display house can have a placard not to exceed three square feet in area which gives information about the house.

**Q. Outdoor Recreation**

6. In residential districts, parking located between the structure and the street shall be set back from the right-of-way beyond the minimum or maximum street yard, as applicable.

**U. Vehicle Sales, Leasing, and Rentals**

4. Vehicle sales, leasing, and rental facilities shall meet the following landscaping standards rather than those of Sec. 9.8, Vehicular Use Area Landscaping:

- b. Plants can be grouped together, provided that at least 250 square feet of contiguous growing area, not encroached upon by impervious surfaces, surrounds each planted tree.

#### **V. Vehicle Service, and Vehicle Service Limited**

- 4. No more than two inoperable motor vehicles per service bay, with a total maximum of ten regardless of the number of service bays, shall be kept on-site at any time.
- 6. Existing vehicle service (full or limited) facilities that were in operation prior to January 1, 1994, and do not comply with the provisions above, shall:
  - a. Provide an opaque screen (a fence or wall at least six feet in height but no more than eight feet in height or sufficient landscaping) to fully screen all outdoor operations of the vehicle repair shop, including vehicle storage, from off-site views, including views from rights-of-way and adjoining properties.
  - b. Additional screening shall not be required if no operations are visible from off-site.
  - c. Fences or walls, when used, shall not be located within any sight distance triangles at any intersection, but shall be set back to provide unimpeded vision clearance for pedestrian and vehicular traffic.

#### **W. Veterinary Clinics, Animal Hospitals, and Kennels**

- 5. In the RR District, parking located between the structure and the street shall be set back at least 25 feet from the right-of-way.

#### **5.3.6 Industrial Use Standards**

##### **B. Concrete Manufacturing Plants**

- 2. The property shall not be adjacent to an existing hospital, day care facility, educational facility, place of worship, convalescent center, or assisted living center.

#### **Sec. 5.4 Accessory Uses and Structures**

[Paragraphs not listed remain unchanged]

##### **5.4.2 Accessory Dwellings**

##### **B. In Residential Districts and on Properties Devoted to Residential Use**

- 5. The accessory dwelling can be located within the primary dwelling or shall meet the locational and dimensional requirements for accessory structures.
- 6. The heated floor area of the accessory dwelling shall be at least 400 square feet in area, but shall not exceed 30% of the heated or air-conditioned floor area of the primary dwelling, except in the RR District, where the heated or air-conditioned floor area can be a maximum of 50% of the primary dwelling heated or air-conditioned floor area on lots of four acres or larger.

##### **5.4.3 Amateur Wireless Facility**

- A. Non-commercial, amateur, ham radio or citizen's band antenna supporting structures, antennas or antenna arrays with an overall height less than 50 feet in Residential districts or with an overall height less than 70 feet in all other zoning districts can be developed, if in accordance with the following additional requirements.

##### **5.4.4 Home Occupations**

##### **A. Generally**

- 2. Only handmade items, foodstuffs, and crafts made on the premises can be offered directly for sale. No goods, products or commodities bought or secured for the express

purpose of resale shall be sold at retail or wholesale on the premises. Catalog and electronic business orders may be received for goods, products or commodities bought or secured for the express purpose of resale at retail and wholesale when the products are received and shipped from the premises to fulfill catalog or electronic business orders.

3. Traffic and parking associated with the use shall not be detrimental to the neighborhood or create congestion on the street where the home occupation is located.
4. Vehicles used primarily as passenger vehicles shall be permitted in connection with the home occupation. Only one commercially licensed vehicle shall be allowed, except in the RS-20 and RR districts, where up to two heavy equipment vehicles can be permitted. All heavy equipment vehicles associated with a home occupation permit shall be screened from view from adjoining properties and the public right of way.
5. No equipment or process shall be used in connection with the home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference that is detectable off-site.
6. No hazardous materials can be manufactured, stored, processed or disposed of on the premises.

#### **B. Rural Home Occupations**

1. In addition to persons residing on the premises, up to three nonresident employees **can** be engaged in the home occupation.
4. An accessory structure or an accessory dwelling **can** be used for all or a portion of the floor area of the home occupation but the combined total square footage devoted to the home occupation **shall** not exceed the limits described in paragraph B.2 above. If a home occupation is located within an accessory structure or dwelling, the accessory structure or dwelling **shall** not be located closer to the front property line than the closest side of the primary dwelling to the front property line; nor closer to the side property line than the closest side of the dwelling to the side property line or 100 feet, whichever is a lesser distance, and not closer than 75 feet to the rear property line.
5. The home occupation **can** include outdoor uses or activities. Any areas used for outdoor activities shall be at least 250 feet from any property line and shall also be closer to the principal dwelling on the site than to any dwelling on an adjoining site.

#### **C. Other Home Occupations**

1. Only persons residing on the premises and up to one nonresident employee **can** be engaged in the home occupation.

##### **5.4.7 On-site Recycling Facilities and Drop-Off Sites**

**A.** Recycling facilities and drop-off sites shall be permitted as an accessory use in all nonresidential districts and multi-family residential property.

##### **5.4.9 Swimming Pools**

###### **A. Private Pools**

2. The pool shall be located within an enclosure that completely surrounds the pool, such as an opaque wall, **opaque fence, or a fence in combination with opaque vegetation.** **The wall or fence shall incorporate** self-closing and self-latching gates on any external entrances directly into the pool area. If any portion of the pool or pool decking is within 20 feet of a property line, the enclosure shall be at least six feet in height. If the pool **or**

decking is more than 20 feet from the property line, the enclosure shall be at least four feet in height.

3. Existing pools that are not located in an enclosed area shall provide an enclosure as described in paragraph A.2 above prior to April 1, 2007. Existing pools that are located within an enclosed area that does not permit views of the pool area from off-site can continue and be replaced so long as all external entrances directly into the pool area are secured through use of self-latching and self-closing gates.

**B. Outdoor Community Pools, Private Club Pools, or Townhouse, Multiplex and Apartment Pools**

2. When the pool is adjacent to off-site residences, the playing of music detectable off-site on a public address system is prohibited. Informational announcements shall be permitted. This requirement shall not apply when a permit has been issued for a special event.
3. All outdoor pools shall be enclosed by a fence that is at least four feet in height. The exterior walls of buildings can be incorporated as a portion of the fence to create a fully enclosed area around the pool. All fence openings into the pool area shall be equipped with self-closing and self-latching gates.

**5.4.10 Vehicle Repair**

Up to two vehicles can be repaired simultaneously on a residential property if the vehicles are registered to an occupant of the residence.

**5.4.12 Limited Agriculture (City Only)**

**A. General**

**1. Permits Required**

- a. A permit under Sec. 3.22, Limited Agriculture Permit (City Only), is required in order to conduct the uses designated by this section. Such uses are distinct from agricultural uses or agricultural use categories permitted under this Ordinance. The limited agriculture permit is personal to the permittee and cannot be assigned.

**2. Permit Revocation and Removal of Items**

- a. Compliance with the requirements of this Ordinance shall create a presumption that the permitted use does not create a nuisance or threat to public health or safety. The permit shall, however, be revoked if the Planning Director determines that the permitted use creates a nuisance or detriment to public health or safety.
- b. Violation of ordinance standards shall result in permit revocation under Sec. 3.22.4, Revocation, and possible enforcement under Article 15, Enforcement, including civil and criminal penalties. Misrepresentation by a permittee shall result in permit revocation or voiding under Sec. 15.3.7, Permit Revocation or Voiding.

**B. Domestic Chickens**

**4. Permitted Housing Types**

Residents of single-family houses and townhouses can keep chickens as authorized under this section. A limited agriculture permit shall not be issued for chickens at other housing types.

**6. Chicken Enclosures**

A chicken coop and chicken pen shall be provided. Chickens shall be secured in the chicken coop during non-daylight hours. During daylight hours chickens can be located

in the chicken pen and **can** be located outside of the pen in a securely fenced yard or chicken tractor/portable pen if supervised by an adult person.

## **Sec. 5.5 Temporary Uses**

[Paragraphs not listed remain unchanged]

Some uses **are** considered temporary in nature and **can** be approved as temporary uses in any zoning district (unless otherwise provided below), subject to the following requirements in addition to requirements of Sec. 3.12, Temporary Use Permit. Additional restrictions regarding the operation of these uses may be imposed through the City or County code, as applicable.

### **5.5.1 In General**

- A.** The maximum allowed time period for a Temporary Use Permit is 45 days, unless otherwise specified below. A Temporary Use Permit **can** be renewed for an additional 45 days, unless otherwise specified below.

### **5.5.2 Specific Temporary Uses**

#### **D. Construction Buildings**

- 1. General**

Construction buildings **can** be permitted as a temporary use incidental to construction occurring on the same site as the construction building is proposed.

- 2. Permitted Timeframe**

Construction buildings shall not be permitted for a time period longer than 12 months, though such permits **can** be renewed one time to provide an additional 12 months.

#### **G. Manufactured Homes**

- 1. Following a Fire or Natural Disaster that Causes an Existing Building to be Uninhabitable**

- a. General**

Class A or B manufactured homes **are** permitted as temporary residences following a fire or natural disaster.

- c. Permitted Timeframe**

Temporary Use Permits for manufactured homes **can** be granted for the period of construction, but shall not be valid for longer than thirty days after a Certificate of Compliance is received for the permanent structure.

- 2. During Home Construction in the RR District**

- a. General**

Class A, B, or C manufactured homes **are** permitted as temporary residences in the RR District while construction of a new dwelling is actively underway. A Class C manufactured home shall require certification by a Professional Engineer that it is safe and habitable in order to be permitted.

- 3. For Custodial Care**

- c. Permitted Timeframe**

(1) The manufactured home shall not be permitted for periods longer than 24 months, but can be renewed for additional 24-month periods.

(2) The manufactured home shall be removed once it is determined that custodial care is no longer required.

- d. Approval Process**

The following shall be provided with an application for custodial care:

- (1) A **notarized document specifying that** direct custodial relationship exists between the occupants of the manufactured home and the house.
- (2) A physician's note indicating custodial care is necessary.

#### **J. Portable On-Site Storage**

##### **1. General**

- b.** A portable on-site storage unit can be located anywhere on a residential property without a temporary use permit while the property is the job address listed on an active building permit issued by the Durham City-County Inspections Department.

##### **4. Permitted Timeframe**

A temporary use permit for a portable on-site storage unit shall be limited to a maximum of 30 days. Such permit can be renewed one time for a maximum of 30 days provided renewal occurs prior to expiration of the original temporary use permit.

#### **K. Public Facilities**

##### **2. Location**

The temporary public facility **can** be located within street yards, **but** not within any required parking or landscape area. An all weather surface shall be provided for access to the temporary public facility.

##### **3. Permitted Timeframe**

The temporary public facility shall not be permitted for periods longer than three years, though the permit **can** be renewed once for up to an additional 24 months.

#### **N. Temporary Structures on Nonresidential Development or Residential Development with at Least 50 Units**

##### **1. General**

Manufactured homes **are** permitted during construction.

##### **3. Permitted Timeframe**

The temporary structure shall be permitted only during construction activities, but shall in no case be permitted for periods longer than 24 months, although such permits **can** be renewed one time to provide an additional 12 months of use on the site. The temporary structure shall be removed from the site when construction ceases, or the permit expires, whichever occurs first.

### **Sec. 6.2 Residential Rural (RR) Development Intensity**

[Paragraphs not listed remain unchanged]

#### **6.2.1 Development Standards**

##### **A. Dimensional Standards**

##### **1.**

Dimensional Standard	Rural Watershed		Tier Rural Tier Non-Watershed		Suburban Tier	
	Min.	Max.	Min.	Max.	Min.	Max.
Residential Density (units per acre)						
Conventional Subdivision	---	0.33	---	0.5	---	1.4
Conservation Subdivision	---	0.5	---	0.75	---	2.0
Open Space (% of gross area) <sup>1</sup>						
Conventional Subdivision	---	---	---	---	---	---
Conservation Subdivision	50	---	50	---	50	---
Lot Area <sup>2</sup>				---	30,000 s.f.	

	3 ac.	---	2 ac.			---
Lot Width <sup>2</sup> (feet)	200	---	150		100	---
Street Yard <sup>2</sup> (feet)	50	---	50		50	---
Side Yard <sup>2</sup> (feet)						
Minimum Each Side	25	---	12		12	---
Minimum Both Sides (total)	50	---	30		30	---
Rear Yard <sup>2</sup> (feet)	50	---	25		25	---
Height (feet)	---	35	---	35	---	35

<sup>1</sup> Please see Sec. 12.5, Recreation Land, for additional land dedication requirements that may apply.

<sup>2</sup> For conservation subdivision dimensional requirements, see below.

2. Minimum lot areas for conservation subdivisions shall be approved by the County Health Department for individual wastewater treatment systems or “Package Plant” style wastewater treatment systems. [Where public wastewater systems are approved to serve the development, no minimum lot sizes shall apply.](#)
  3. Within a conservation subdivision:
    - a. The minimum street yard shall be eight feet.
    - b. No minimum side yard shall apply; however, a minimum building separation of 10 feet shall apply.
    - c. Rear yards shall be those indicated for conventional subdivisions in the table in paragraph 6.2.1A.1 above.
  4. Additional height is permitted for non-farm structures at a rate of one additional foot for every one foot of additional setback provided. In no event shall the structure be more than 45 feet in height.
- B. Development in the Rural Villages of Bahama and Rougemont as designated in the Comprehensive Plan [can](#) use the Suburban Tier dimensional standards subject to Sec. 8.4, Floodplain and Flood Damage Protection Standards, and Sec. 8.7, Watershed Protection Overlay Standards, and the availability of water and wastewater treatment systems.

#### 6.2.4 Conservation Subdivision

##### A. Purpose

##### H. Primary and Secondary Conservation Areas and Other Open Space

###### 1. Primary Conservation Areas

The following are considered primary conservation areas and shall be included within the required open space in the order of preference listed below. *Secondary* conservation areas and other open space [can](#) be included only after *primary* conservation areas comprise 80 percent of required open space.

###### 2. Secondary Conservation Areas

- e. New or existing improved pedestrian trails that are not identified as primary conservation areas or located in other conservation areas and that do not negatively impact other conservation areas. Such trails [can](#) be located in utility easements only if all utilities in the easements are buried, and in such cases only the improved trails, and not the easements, shall be considered secondary conservation areas.

###### 3. Other Open Space

The following areas [can](#) be included within the required open space if additional space is still required after all primary and secondary conservation areas have been included:



- e. **Stormwater** management facilities engineered as bio-retention areas or wetlands, including easements for such facilities, can comprise a maximum of 10 percent of required open space.

## **Sec. 6.3 Residential Suburban (RS) Development Intensity**

[Paragraphs not listed remain unchanged]

### **6.3.1 Development Standards**

#### **A. Dimensional Standards**

- 2. The maximum residential density does not apply to actions listed under paragraph 3.6.2, Actions Exempt from Subdivision Requirements. Where this maximum does apply, density can be increased in accordance with paragraph 6.3.3B, RS-M District Major Roadway Density Bonus, or Sec. 6.6, Affordable Housing Density Bonus. Other than these options the maximum density shown cannot be exceeded even though the use of an alternative housing type may impose smaller lot requirements.
- 5. Minimum lot area for conventional, single family detached housing types can be reduced in accordance with paragraph 6.3.3C, Lot Averaging.
- 6. Additional height in the RS-20, RS-10, and RS-8 districts, is permitted at a rate of one additional foot for every one foot of additional setback provided. In no event shall the structure be more than 45 feet in height.
- 7. For projects in the RS-M district, additional height is permitted at a rate of one additional foot for every one foot of additional setback provided, if shown on a development plan meeting the requirements of paragraph 3.5.6, Development Plan.

### **6.3.3 Residential Density**

#### **C. Lot Averaging**

**Commentary:** Some lots in a proposed conventional subdivision can be reduced in area by up to 15% (for example, a 10,000 SF lot could be reduced to 8,500 SF), provided that other lots exceeded 10,000 SF and the overall average lot area was 10,000 SF or greater.

## **Sec. 6.4 Residential Urban (RU) Development Intensity**

[Paragraphs not listed remain unchanged]

### **6.4.1 Development Standards**

#### **A. Dimensional Standards**

- 2. Maximum density can increase in accordance with paragraph 6.4.3, Residential Density, and/or Sec. 6.6, Affordable Housing Density Bonus. Other than these options, the maximum density shall not be exceeded even though the use of an alternative housing type may impose smaller lot requirements.
- 3. Additional height in the RU-5 and the RU-5(2) districts is permitted at a rate of one additional foot for every one foot of additional setback provided. In no event shall the structure be more than 45 feet in height.
- 4. If the project in the RU-M district is on at least a four acre lot, the maximum height can be increased up to 75 feet through the issuance of a Minor Special Use Permit.

### **6.4.3 Residential Density**

## **A. Major Roadway Density Bonus Area**

### **B. Thoroughfare Density Bonus**

Projects located along major or minor thoroughfares with rights-of-way greater than 50 feet in width **can** develop as townhouses, using the dimensional provisions of Sec. 7.1.8, Townhouses, so long as the average width of the townhouse lots is at least 20 feet. Projects developed utilizing this option shall meet all of the requirements of Sec. 6.8, Infill Development in Residential Districts, where applicable, except that the requirements regarding minimum lot width established in Sec. 6.8.2, Lot Width, shall not apply.

### **D. Townhouse Transitional Use**

Sites located immediately between non-residential and single-family residential uses **can** develop as townhouses, using the dimensional provisions of Sec. 7.1.8, Townhouses, to serve as a transitional use. Projects developed utilizing this option shall meet all of the requirements of Sec. 6.8, Infill Development in Residential Districts, where applicable, except that the requirements regarding minimum lot width established in Sec. 6.8.2, Lot Width, shall not apply.

## **Sec. 6.5 Residential Compact (RC) Development Intensity**

[Paragraphs not listed remain unchanged]

### **6.5.1 Development Standards**

#### **A. Dimensional Standards**

2. Maximum density **can** be increased in accordance with paragraph 6.5.3, Residential Density, and/or Sec. 6.6, Affordable Housing Density Bonus.
3. Maximum height in the RC Support Area **can** be increased to 50 feet if the building is not within 150 feet of the perimeter of the Compact Neighborhood Tier where the Tier adjoins any property zoned and used for residential purposes.

### **6.5.3 Residential Density**

#### **B. Lot Averaging** [Text remains unchanged]

## **Sec. 6.6 Affordable Housing Density Bonus**

[Paragraphs not listed remain unchanged]

### **6.6.1 Applicability**

- A. This program **can** be utilized at the time of site plan or subdivision for projects with a minimum of 15 units or projects adding at least 15 units to an existing development in any zoning district where residences are permitted, except projects that are 100% “affordable” by the United States Department of Housing and Urban Development (HUD) standards shall not be eligible to utilize the bonus.

### **6.6.2 Bonus Program**

- A. A density bonus of up to 15% **is permitted** for projects providing units affordable to persons with incomes between 50% and 60% of the median family income for the jurisdiction. This density bonus **is** permitted to double if the project is located with at least 500 feet of frontage on a major thoroughfare.

- B. A density bonus of up to 20% **is permitted** for projects providing units affordable to persons with incomes below 50% of the median family income for the jurisdiction. This density bonus **is** permitted to double if the project is located with at least 500 feet of frontage on a major thoroughfare.
- D. In single-family and duplex developments, lot sizes and yard requirements in internal lots **can** be reduced up to 20% in order to incorporate the additional units; however, no decrease in lot size or yard requirements in perimeter lots shall be permitted.
- H. Compliance measures **can** be required at the time of approval, including but not limited to contracts, restrictive covenants, deed restrictions, and stipulated penalties.

## **Sec. 6.8 Infill Development in Residential Districts**

[Paragraphs not listed remain unchanged]

### **6.8.1 Applicability**

#### **C. Compact Neighborhood Tier**

This section **can** be used to permit the development of single-family detached houses as a transition to adjacent single-family uses in the Core Area of the RC District.

### **6.8.3 Yards**

#### **A. Street Yards**

- 4. In the Urban Tier, outdoor seating areas **are** allowed in street yards.

#### **B. Side Yards**

- 2. Porte-cochères **can** extend into the side yard when incorporated into the design and construction of the primary structure, but in no case shall they be permitted to be closer than three feet from the property line.

### **6.8.4 Buildings**

#### **D. Main Entrance**

Every principal structure shall have a main entrance on a street other than an alley. On corner lots, the main entrance **can** face either street or **can** be oriented toward the corner. For buildings that have more than one main entrance (e.g., a duplex), only one main entrance shall be required to face a street.

## **Sec. 6.9 Nonresidential Development in Residential Districts**

[Paragraphs and tables not listed remain unchanged]

### **6.9.1 Dimensional Standards A.** Nonresidential development in residential districts shall comply with the dimensional standards in the following table:

<sup>1</sup>Usable open space is not required for nonresidential development in residential districts, per paragraph 7.2.3A.2.

- B. Development in the Rural Villages of Bahama and Rougemont as designated in the Comprehensive Plan **can** use the Suburban Tier dimensional standards subject to Sec. 8.4, Floodplain and Flood Damage Protection Standards, Sec. 8.7, Watershed Protection Overlay Standards and the availability of water and wastewater treatment systems.
- C. Development in Suburban Transit Areas as designated in the Comprehensive Plan **can** use the Compact Tier Support Area development standards subject to the availability of infrastructure to support them.

## **Sec. 6.10 Nonresidential District Development Intensity**

[Paragraphs not listed remain unchanged]

### **6.10.1 Nonresidential Development Standards**

#### **A. Rural Tier**

##### **1. Standards for All Districts**

- a. Minimum side yards in the CN and CG districts **can** be reduced to 15 feet if adjacent to a nonresidential district or use.
- b. Additional height in the I district, up to 145 feet, **is allowed if** approved through the issuance of a Minor Special Use Permit pursuant to Sec. 3.9, Special Use Permit.

#### **B. Suburban Tier**

##### **1. Standards for the CN, OI, and CG Districts**

- a. Side yards in the OI and CG district **can** be reduced by up to 50% if adjacent to a nonresidential district or use or a railroad right-of-way.
- b. Rear yards in the table above **can** be reduced by up to 50% if adjacent to a nonresidential district or use or a railroad right-of-way.
- c. Additional height in the OI district, up to 145 feet, **is allowed if** approved through the issuance of a Minor Special Use Permit pursuant to Sec. 3.9, Special Use Permit.

##### **2. Standards for the SRP, IL, and I Districts**

- b. Side yards in the IL and I districts **can** be reduced by 10 feet if adjacent to a nonresidential district or use.
- c. Rear yards in the IL and I districts **can** be reduced by up to 50% if adjacent to a railroad right-of-way.
- d. Additional height, up to 145 feet, **is allowed if** approved through the issuance of a Minor Special Use Permit pursuant to Sec. 3.9, Special Use Permit.

- 3. Development in the Rural Villages of Bahama and Rougemont as designated in the Comprehensive Plan **can** use the Suburban Tier dimensional standards subject to Sec. 8.4, Floodplain and Flood Damage Protection Standards, Sec. 8.7, Watershed Protection Overlay Standards, and the availability of water and wastewater treatment systems.

#### **C. Urban Tier**

##### **1. Standards for the CI District**

- a. Buildings greater than 20,000 square feet **are allowed** in the CI district **if approved through the issuance of** a Minor Special Use Permit pursuant to Sec. 3.9, Special Use Permit.
- c. Additional height in the CI district, up to 50 feet, **is allowed** if the building uses upper story step-backs at a ratio of one to one.

##### **2. Standards for the CN, OI, and CG Districts**

- b. Rear yards **can** be reduced by up to 50% if adjacent to a railroad right-of-way.
- c. Additional height in the OI and CG districts, up to 145 feet, **is allowed if approved** through the issuance of a Minor Special Use Permit pursuant to Sec. 3.9, Special Use Permit.

##### **3. Standards for the IL and I Districts**

- b. Rear yards **can** be reduced by up to 50% if adjacent to a railroad right-of-way.
- c. Additional height, up to 145 feet, **is allowed if** approved through the issuance of a Minor Special Use Permit pursuant to Sec. 3.9, Special Use Permit.

## D. Compact Neighborhood Tier

### 1. Standards for the CI District

- a. Buildings greater than 20,000 square feet **are allowed** in the CI district **if approved through** a Minor Special Use Permit pursuant to Sec. 3.9, Special Use Permit.
- c. Additional height in the CI district, up to 50 feet, **is allowed** if the building uses upper story step-backs at a ratio of one to one.

### 2. Standards for the CN and OI Districts

- b. Additional height in the OI district, up to 145 feet, **is allowed if** approved through the issuance of a Minor Special Use Permit pursuant to Sec. 3.9, Special Use Permit.

### 3. Standards for the CG and IL Districts

- b. Additional height in the CG district, up to 145 feet, **is allowed if** approved through the issuance of a Minor Special Use Permit pursuant to Sec. 3.9, Special Use Permit.
- d. Subject to the restriction in paragraph 6.10.1D.3.c above, OI uses allowed in IL districts located in the Compact Neighborhood Tier shall have a maximum height limit of 60 feet permitted by right. Additional height up to 75 feet **is allowed if** approved through the issuance of a Minor Special Use Permit pursuant to Sec. 3.9, Special Use Permit.
- e. Subject to the restriction in paragraph 6.10.1D.3.c above, and notwithstanding paragraph 6.10.1D.3.d above, hotel, motel and extended stay uses, places of worship, government facilities (excluding correctional facilities), and lodges and clubs allowed in IL districts located in the Compact Neighborhood Tier shall have a maximum height limit of 80 feet permitted by right. Additional height up to 95 feet **is allowed if** approved through the issuance of a Minor Special Use Permit pursuant to Sec. 3.9, Special Use Permit.

## E. Street Yard **Alternatives**

A new structure or modifications to an existing structure shall not be required to conform to the street yard requirements of the district in the following circumstances:

- 4. In the Urban and Compact Neighborhood Tiers, excluding Design Districts, **the applicable street yard of a multiple frontage lot shall be applied to the frontage with the predominant orientation of existing structures along the blockface. The other frontage shall be considered a side or rear as applicable; or**

## 6.10.2 Residential Development in Nonresidential Districts

### B. Residential Density

#### 1.

District	Rural	Suburban	Urban	Compact
CI	---	---	14 <sup>1,2</sup>	14 <sup>1,2</sup>
CN	0.2	8.7 <sup>1</sup>	10.5 <sup>1,2</sup>	14 <sup>1</sup>
OI	---	10.5 <sup>1</sup>	14 <sup>1,2</sup>	17.5 <sup>1</sup>
CG	0.2	10.5 <sup>1</sup>	14 <sup>1,2</sup>	17.5 <sup>1</sup>

<sup>1</sup> Density can be increased through use of the Sec. 6.6, Affordable Housing Density Bonus.

<sup>2</sup> Density can be increased through use of the options available under paragraph 6.4.3, Residential Density.

## Sec. 6.11 Planned Districts

[Paragraphs not listed remain unchanged]

#### **6.11.2 General Requirements**

- B.** The initial zonings to establish the UC and UC-2 Districts on each campus, which shall be initiated by the appropriate governing body for each university/college campus, shall not require a Development Plan, though the university **can** submit a Development Plan providing additional details and restrictions beyond minimum Ordinance requirements, for all or parts of the area associated with the initial zoning map change. A basic zoning map change application shall be required for the initial zoning map change, along with documentation on the availability of adequate parking and a limited surcharge fee to cover public notification requirements.
- C.** Except in the MU District, uses shall be permitted only in the location shown on the approved Development Plan. Development of the property **shall** not begin until a site plan has been approved for that portion of the property. Site plans shall be reviewed for conformance with an approved Development Plan. Should alterations or changes represent a substantial departure from the approved plan, an amendment is required. The same procedures as required for the original approval shall be required for Development Plan amendments.

#### **6.11.3 Planned Development Residential (PDR)**

##### **A. Uses**

- 3.** Nonresidential uses allowed in the PDR District shall be limited to those uses listed in the Sec. 5.1, Use Table. Nonresidential uses **can** be approved subject to the use limitations established in Sec. 5.3, Limited Use Standards, and the following conditions being met:
  - a.** The development shall provide for at least 100 dwelling units. The dwelling units **can** be separate structures from the retail or office uses or located in the same structure as the retail or office uses. To assure that the commercial and office uses are supportive of the PDR project, Certificates of Compliance shall be issued for at least 25% of the residential units before Certificates of Compliance **are** issued for the retail or office uses. **This** requirement **shall not apply** when residences are located in the same building as the retail or office uses.

##### **B. Dimensional Requirements**

###### **1. Site Area**

- b.** Additions to an existing approved PDR **can** be made in increments of any size.

##### **D. Building Orientation**

###### **2. Building Separation**

- c.** The governing body **can** reduce separations after consideration of the general bulk and scale in comparison with nearby development. Such modification shall only occur in conjunction with the approval of the development plan.

#### **6.11.4 University and College Districts (UC and UC-2)**

##### **H. Landscaping**

###### **2. Vehicular Use Areas**

In the Transitional Use Area, surface parking lots shall not be located immediately adjacent to or across from properties zoned residential unless separated

from the street by a landscaped area equivalent to the average street yard of existing buildings or parking lots on adjacent properties.

## **I. Parking**

1. Determination of the number and location of parking spaces required, including the extent of bicycle parking required, shall be tied to the university or college's documentation of adequate parking availability. Parking may include spaces located outside the UC District that are controlled by the university or college. In order to make this determination, a plan from each university or college covered by a UC District shall be filed with the City-County Planning Department and reviewed and approved by the [Planning Director or designee](#) to demonstrate that adequate parking is being provided by the university or college, considering both the location and amount of parking provided. [The following information shall be provided within the plan:](#)
  - a. [A map depicting the location of parking lots within the UC district.](#)
  - b. [An inventory of the number of parking spaces, per parking lot or structure, including the type of parking spaces \(compact, handicap accessible, reserved, visitor, etc.\).](#)
  - c. [A report indicating the typical maximum occupancy of each parking lot or structure at typical peak-period. The occupancy data shall be collected within six months of the date of plan submittal.](#)
  - d. [The inventory of bicycle parking spaces within the UC district. The exact location of bicycle parking spaces need not be identified; however, the total number of spaces within each section or subarea within the campus shall be provided.](#)
  - e. [A summary report describing any Traffic Demand Management \(TDM\) programs operated by the university or college within the UC district.](#)
  - f. [A report indicating any changes in enrollment and employment by the University or college within the UC district since the last plan update and any projected changes within the next four years.](#)
  - g. [A summary report indicating the availability of the following within the UC district:](#)
    - [\(1\) Sidewalk connectivity;](#)
    - [\(2\) Transit services; and](#)
    - [\(3\) Bicycling amenities.](#)
2. Approved parking plans shall be valid for a four-year period. Parking requirements are not required for site plans in a UC district if an approved valid parking plan is in place.
3. If there is not an approved, valid parking plan in effect at the time a development approval is requested by an institution, the parking requirements of Sec. 10.3, Required Parking, shall be applied. Alternatively, processing of the requested development approval may be delayed until a new plan is [approved](#).

## **L. Infrastructure**

### **2. Sidewalks**

The college or university shall provide public sidewalk with each site plan application in the following manner:

- a. The length of sidewalk required per site plan shall be equal to the total of the widest dimension of the project area(s).

- b. Sidewalk can be placed as permitted in paragraph 12.4.2C.1; however, locations shall be prioritized as follows:
  - (1) Locations within the campus specified within the *Durham Walks! Plan* or subsequently adopted pedestrian plan(s);
  - (2) Along public right-of-way internal to the campus;
  - (3) Within the TUA located within one mile of the project site.
- c. No sidewalk shall be required pursuant to paragraph 12.4.2D, Exemptions.

#### **6.11.7 Mixed Use (MU)**

#### **B. Dimensional Requirements**

##### **2. Use Area**

- b. For projects with three or more uses, the 30% minimum for a single use shall be waived; however, no single use shall occupy more than 60% of the floor area or gross acreage of the project.
- c. Changes in the location of use areas within a project shall be approved through the site plan process, provided that all other requirements of the district, including the required mix of uses, are met.

#### **D. Residential Density**

##### **2. Maximum**

##### **a. Vertical Integration of Uses**

For projects in which residential and nonresidential uses are integrated vertically, density shall be calculated based upon the entire site acreage, including areas typically precluded from consideration for density in Article 8, Environmental Protection.

#### **G. Street Yards**

##### **1. Suburban Tier**

A 25-foot street yard shall be maintained, unless the project is in a Suburban Transit Area as designated in the Comprehensive Plan. Projects in these areas shall maintain a minimum street yard of eight feet.

#### **H. Open Space**

##### **1. Suburban Tier**

At least 10% of the gross acreage of the entire site shall be devoted to open space, unless the project is located in a Suburban Transit Area as designated in the Comprehensive Plan. Projects in these areas shall have a minimum open space requirement of 2% of the gross acreage of the site.

#### **J. Parking**

##### **1. Residential**

##### **a. Single Family Detached, Zero Lot Line, Townhouse**

Parking shall be provided at a minimum rate of one parking space per dwelling unit and a maximum rate of 2.1 spaces per dwelling unit.

##### **b. Multifamily**

Multifamily parking shall not exceed an amount equivalent to 2.1 spaces per dwelling unit.

##### **2. Nonresidential**



- a. The maximum number of parking spaces allowed in any project shall not exceed 25% above the total minimum parking requirements for all applicable uses within the development as defined in Sec. 10.3, Required Parking. In order to achieve this number, the applicant shall demonstrate that each of the following conditions are met:
  - (2) That techniques for reducing parking demand, **such as** Travel Demand Management [TDM] programs, transit use to and within the project, shared parking, and on-street parking shall be implemented but **will not** reduce the demand for parking; and
  - (3) That the need for parking beyond the minimum is justified by **comparable** projects in other locations.

## **Sec. 6.12 Design Districts**

[Paragraphs and portion of tables not listed remain unchanged]

### **6.12.2 All Design Districts**

#### **B. Sub-districts of Design Districts**

##### **4. Special Sub-districts**

Special sub-districts **can** be established as needed for any of the Design Districts. Specific standards for a special sub-district shall be contained in the standards for the Design District in which it is established.

#### **D. Frontage and Building Types**

Frontage Types define the interface of the development with the streetscape. They apply to all street facades and the adjoining streetscape, including public and private streets and public access and common areas, generally at ground level. Building Types regulate massing beyond just that along the street frontage. They include standards regarding all sides of the building. A building with multiple street frontages **can** employ different Frontage Types on its facades, but Building Types cannot be combined. If a property has street frontage on all sides, a single street frontage can be designated as a service frontage and thereby be exempt from meeting all frontage type standards.

##### **4. Courtyard Frontage Type**

###### **b. Building Standards**

- (1) Main entrances **can** be located in the courtyard instead of, or in addition to, entrances at the street and shall be spaced at a maximum of 150 foot intervals along the frontage.

##### **5. Forecourt Frontage Type**

###### **b. Building Standards**

- (4) Forecourt Sub-types

- (a) A raised court type **can** be created when the ground level of the forecourt is raised above the adjacent street level. The raised court shall be a minimum of 30 inches and a maximum of four feet above grade level.
- (b) A light court type **can** be created when the ground level of the forecourt is lowered below the adjacent street level. The light court shall be a usable space accessible from either the street and/or the building.
- (c) A stoop type can be created when a minimum 20 square foot landing area raised a minimum of 30 inches and a maximum of six feet above the average grade at the street is provided that corresponds to building entries.

## **6. Parking Structure Frontage Type**

### **b. Building Standards**

(5) The following specific architectural standards shall apply:

- (c) For exposed parking areas on all levels, a decorative wall or other decorative screening of sufficient height to screen parked vehicles shall be provided. Openings, not including driveway access, shall be a maximum of 100 square feet. Where parking spaces are exposed at the ground level, openings shall be articulated with additional columns or pilasters, window frames, decorative screens, trellises or vegetative walls. Landscaping shall not be considered decorative screening for the purposes of these requirements.

## **7. Monumental Building Type**

### **a. Description**

A structure with large setbacks from the sidewalk which become publicly accessible open area. This Building Type **can** be utilized for public or private development with a qualifying use as listed below.

### **d. Front Facade Street Yard Standards**

- (4) A minimum of 30% of the street yard area shall be comprised of landscaping and shall include the following:
  - (b) No more than 50% of the landscaped area **shall** be lawn. The remainder of the area shall be planted with trees, shrubs, perennials, and/or annuals.

## **E. Additional Standards**

### **1. Pedestrian Mall Standards**

- f. Street names **can** be established for pedestrian malls pursuant to paragraph 12.3.2, Street Names, and the establishments that open onto the pedestrian mall **can** have addresses on it when a minimum clear zone of 20 feet in width and 13.5 feet in height is provided to accommodate emergency vehicles.

### **2. Parking and Services**

- c. To meet the required minimum percentage of the building facade at the build-to line, parking areas **can** be accessed by a tunnel through the building. When this option is utilized the design shall demonstrate that the width and height of the opening in the building is the minimum required to comply with any applicable standards.

## **F. Architectural Standards**

### **1. Building Access and Pedestrian Connectivity**

- c. Residential uses at street level shall be raised a minimum of 30 inches from street level. Entries to residential uses can be lower than 30 inches above street level so long as the finished floor elevation of the residential unit is a minimum of 30 inches above street level. This provision shall not apply to the forecourt frontage types when a street yard of 10 feet or greater is utilized.
- d. For every 250 feet in facade length along the street frontage, a minimum of one exterior pedestrian passage shall be provided between or through buildings to allow for pedestrian connectivity.
  - (4) Pedestrian passages can be provided between two buildings, or can be provided as a tunnel through a building, but shall not create a dead end.

## 2. Fenestration Requirements

- b. The area of any exterior air intake louvers or vents **can** be subtracted from the total wall area when calculating glazing requirements.
- c. **Street Level Window Design Standards**
  - (1) Street level glazing shall have transparent glass. Mirrored and frosted glass **shall** not be used.

## 3. Materials

- a. Vertical changes in exterior building materials **shall** only occur at inside corners of the building facade.
- b. Horizontal changes in exterior building materials **shall** only occur as defined lines, edges, or elements.

## 4. Facades

**Example:** To provide building entrances at 175 foot intervals for a project, bay widths of 35 feet would be required ( $100+3(25)=175$ ;  $50-3(5)=35$ ).

## G. Streetscape Standards

### 1. Sidewalks

- a. Sidewalks shall be provided from the back-of-curb to the build-to line in the Core sub-district of all Design Districts. In all other sub-districts, sidewalks shall be provided from the back-of-curb to the build-to line and **can** include a planting strip of a maximum of three feet in depth located between the sidewalk and the back-of-curb.

### 3. Streetscape Amenities

- b. Existing streetscape amenities along the street frontage of the development **can** count towards required amenities so long as they meet all dimensional requirements.
- d. Ledges and walls **can** count as seating provided that they meet the dimensional requirements of this section.

## 6.12.3 Downtown Design (DD) District

### A. Site Design Standards

#### 1. Building Placement

- e. To allow for variety, buildings **can** be built two feet in front of or behind the build-to line.

## 2. Building Height and Massing

### c. Additional Height with Amenities

(1) At the time of **preliminary plat** or site plan approval, additional building height is allowed **pursuant to the project amenities table below. Project amenities required elsewhere in this Ordinance or in the City Code shall not be used as amenities to qualify for additional height.**

Project Amenities	Standards <sup>1</sup>	Additional Height	
		Core	Support 1
Historic Preservation	Undertake or incorporate the adaptive reuse of an existing historic structure, including local landmarks, National Register properties, or pivotal or contributing buildings in a historic district. The renovation can add onto the structure but shall not demolish any exterior historically significant portion of the structure.	45 feet	30 feet

## 6.12.4 Compact Design (CD) District

### A. Site Design Standards

#### 1. Building Placement

- b. To allow for variety, buildings **can** be built two feet in front of or behind the build-to line.

#### 2. Building Height and Massing

##### d. Additional Height with Minor Special Use Permit

(3) A project amenity shall be provided to compensate for the additional height in accordance with the table below. Project amenities required elsewhere in this ordinance or in the City Code **shall** not be used as amenities to qualify for additional height. Only one increment of additional height is allowed. A single amenity cannot be used for both additional height and additional density in paragraph 6.12.4A.3.b.

#### 3. Residential Density

- b. At the time of site plan approval, additional residential density may be granted through the issuance of a minor special use permit, as per Sec. 3.9, Special Use Permit, provided that the following findings are made:

(3) A project amenity shall be provided to compensate for the additional density in accordance with the table below. Project amenities required elsewhere in this ordinance or in the City Code **shall** not be used as amenities to qualify for additional density. Only one increment of additional density is allowed. The same amenity cannot be used for both additional density and additional height in paragraph 6.12.4A.2.d, Additional Height with Minor Special Use Permit.

### B. Additional Use Limitations

1. Commercial uses in the Support 2 sub-district of the CD District shall be limited to 20,000 square feet in size per establishment and shall only be permitted when the property has frontage on a major or minor thoroughfare as designated in the adopted Thoroughfare Plan.

2. Non-commercial uses shall not be permitted on the ground level of the Pedestrian Business sub-district (Ninth Street) of the CD District. Upper-story residential uses can have ground level access points in the Pedestrian Business sub-district.

## **Sec. 6.13 Measurement and Computation**

[Paragraphs not listed remain unchanged]

### **6.13.1 Height**

#### **6.13.3 Required Yards**

##### **B. Encroachments into Required Yards**

1. Chimneys, pre-fabricated chimneys, flues, or smokestacks can extend into yard spaces but **shall** not occupy more than 30 square feet of the required yard space.
2. Sills and ornamental features **can** project up to two feet into any yard.
3. Fire escapes **can** project up to eight feet into any required yard. Fire escapes in the DD District are permitted to extend beyond the property line.
4. Cornices, eaves, and awnings **can** extend up to five feet into any required yard, but shall remain at least two feet from the property line, except on zero lot line homes.
5. Marquee signs **can** extend into yard spaces in conformance with standards found in the Sec. 11.6, Signs Requiring Permits.
6. Pedestrian bridges, breezeways, building connections, and supports of these structures **can** extend into required yards upon findings by the approving authority that the connecting feature is necessary to provide safe pedestrian access or to improve transit access.
7. Security gates and guard stations **can** be located within any required yard.
8. Decks, uncovered terraces, and at-grade patios **can** extend up to four feet into any required side yard, or up to eight feet into any required street yard, or within four feet of a rear property line.
9. Uncovered steps and handicapped access ramps **can** be located within any yard.
10. Bay windows, entrances, balconies, and similar features that are less than ten feet wide **can** extend up to one and one-half feet into any required yard, but shall remain at least six feet from the property line.
11. Mechanical equipment for residential uses, such as HVAC units, **can** extend into any required side yard but shall remain at least six feet from the property line.
12. Trellises and pergolas **can** be located within any required yard.

## **Sec. 7.1 Housing Types**

[Paragraphs and tables not listed remain unchanged]

### **7.1.1 In General**

- A. Housing types do not apply to the Design Districts, where all uses, including residential, shall comply with paragraph 6.12.2D, Frontage and Building Types.

**B. Condominium Development** [Text remains unchanged]

**C. Yard Standards on Blocks with Mixed Housing Types** [Text remains unchanged]

### 7.1.2 Single-Family Detached House

#### A. Description

A single-family detached house is located on an individual lot with yards on all four sides of the house. Vehicular access can take place from the front, side, or rear of the lot.

### 7.1.4 Traditional House

#### A. Description

A traditional house is a single-family detached house that is set closer to the street than a conventional single family detached house and shall only have vehicular access from the rear. It has yards on each side of the building.

#### B. Development Standards

Traditional House Standards	RU-5, RU-5(2)	RU-M	RC
<b>Conventional Subdivision</b>			
<b>Yards (min. feet)<sup>2</sup></b>			
Street Yard	5	5	5
Side Yard (single)	6	6	6
Side Yard (total)	15	15	15
Rear Yard	25	25	25
<b>Cluster Subdivision</b>			
<b>Yards (min. feet)</b>			
Street Yard	5	---	---
Side Yard (single)	5	---	---
Side Yard (total)	12	---	---
Rear Yard	25	---	---

### 7.1.5 Patio House

#### A. Description

The patio house is a single-family detached house similar to a zero lot line house that is placed on a small lot.

#### B. Development Standards

<sup>2</sup> Yards can be reduced to as little as 12 feet if the structures are located interior to a project and do not front on a street classified as a collector or greater.

<sup>3</sup> Front vehicular access can be reduced to as little as 20 feet if the structures are located interior to a project and do not front on a street classified as a collector or greater.

### 7.1.6 Semi-Attached House

#### B. Development Standards

A semi-attached house shall be permitted in accordance with the table below.

<sup>2</sup> Yards can be reduced to as little as 15 feet if the structures are located interior to a project and do not front on a street classified as a collector or greater.

<sup>3</sup> Front vehicular access can be reduced to as little as 20 feet if the structures are located interior to a project and do not front on a street classified as a collector or greater.

### 7.1.7 Duplex

#### A. Description

A duplex is a two-family dwelling in a single structure on a single lot. Individual units can be located on separate floors or side-by-side.

#### **B. Development Standards**

A duplex shall be permitted in accordance with the table below.

<sup>2</sup> Yards **can** be reduced to as little as 15 feet if the structures are located interior to a project and do not front on a street classified as a collector or greater.

<sup>3</sup> Front vehicular access **can** be reduced to as little as 20 feet if the structures are located interior to a project and do not front on a street classified as a collector or greater.

#### **7.1.8 Townhouse**

##### **B. Development Standards**

1. A townhouse shall be permitted in accordance with the table below.

<sup>2</sup> Yards **can** be reduced to as little as 12 feet if the structures are located interior to a project and do not front on a street classified as a collector or greater.

<sup>3</sup> Front vehicular access **can** be reduced to as little as 20 feet if the structures are located interior to a project and do not front on a street classified as a collector or greater.

#### **7.1.9 Multiplex**

##### **A. Description**

A multiplex is three or four individual units consolidated into a single structure using common walls on a single lot. Individual units can be located on separate floors or side-by-side. Parking is often shared in a single consolidated area, even when garages and carports are used.

##### **B. Development Standards**

A multiplex shall be permitted in accordance with the table below.

<sup>2</sup> Yards **can** be reduced to as little as 12 feet if the structures are located interior to a project and do not front on a street classified as a collector or greater.

<sup>3</sup> Front vehicular access **can** be reduced to as little as 20 feet if the structures are located interior to a project and do not front on a street classified as a collector or greater.

#### **7.1.10 Apartment**

##### **A. Description**

An apartment is a multifamily structure(s) on a single tract or parcel of land containing three or more units. Apartments **can** vary in height; the individual units **can** be located on separate floors or side-by-side. Parking is often shared in a consolidated area, even when garages and carports are used.

## **Sec. 7.2 Open Space**

[Paragraphs not listed remain unchanged]

### **7.2.1 Purpose**

Open space adds to the visual character and uniqueness of each development and allows for recreational and aesthetic enjoyment by the residents. In the Rural Tier, open space is intended to serve as land preserved for passive enjoyment. In the Suburban and Urban Tiers, improved open space provides centrally located community gathering spots, and play spaces that are

integral to the livability of the neighborhoods, while the preservation of natural areas ensures habitat. In the Compact Neighborhood Tier, a limited quantity of open space is required as relief from the intensity of the built environment. Except for Sec. 7.2.5, Ownership and Management of Open Space, the requirements of this section do not apply to conservation subdivisions under Sec. 6.2.4, Conservation Subdivision.

#### **7.2.2 Required Open Space**

- A.** Open space shall be required in all districts in accordance with Article 6, District Intensity Standards, except that certain residential developments can make payment in lieu of providing required open space provided that the development:
- B.** Payment-in-lieu shall be an amount equivalent to the tax value of the amount of usable property that would have been required for open space. Payments, when authorized, shall be expended within the respective recreation district within which collected.
- C.** In Cluster Subdivisions, the quantity of open space shall be equal to the reduction in total lot area, in addition to the open space required in the zoning districts in Sec. 6.3, Residential Suburban Development Intensity, Sec. 6.4, Residential Urban Development Intensity, or Sec. 6.5, Residential Compact Development Intensity, as applicable.

#### **7.2.4 Open Space Calculation**

- A.** Streets, driveways, vehicular use areas and required yard spaces provided for residences shall not be counted toward the open space requirement.

#### **7.2.5 Ownership and Management of Open Space**

- E.** Open space that has been dedicated to an established homeowner's association [can](#) be transferred with a permanent conservation easement to a land trust or similar conservation- oriented non-profit organization with legal authority to accept such easements pursuant to paragraph 7.2.5C.1.a above .

### **Sec. 7.3 Design Standards**

[Paragraphs not listed remain unchanged]

#### **7.3.1 Facade/Roofline Treatment**

- B.** All applicable structures shall be required to incorporate variations in the facades and roofline in order to ensure visual interest by the following standards:
  - 1.** Incorporate variations in the facade, such as recesses and projections, door and window rhythm, or other architectural detailing. Changes of materials [can](#) also be used to meet this requirement so long as materials changes occur at a change of plane, such as a recess, projection, or inside corner; and

#### **7.3.2 Canopies**

##### **A. General Standards**

- 1.** Canopies in nonresidential zones can extend into the required yard but shall be at least five feet from any property line and shall not project into any utility easement.

##### **B. Fuel Canopies**

- 1.** The maximum distance to the highest point on the fascia shall be 19-1/2 feet as measured from the highest point of the highest grade under the canopy.

### **Sec. 7.4 Outdoor Lighting**



[Paragraphs and portions of tables not listed remain unchanged]

#### 7.4.2 Applicability

**B.** The following shall be exempt from these provisions:

#### 7.4.3 Standards

**A.**

Type of Lighting	LIGHT LEVEL (in foot-candles)			
	Minimum		Maximum	
	At Point	Any Point	At Point	Any Point
On-site walkways between building entrances, between parking and a building entrance, or serving to meet sidewalk requirements per Sec. 12.4, Pedestrian and Bicycle Mobility	0.2		5.0	
Exterior Pedestrian Passages and Malls (Sec. 6.12)	0.5		15.0	

#### **C. Full-Cutoff Lighting**

The maximum height for directional or full cut-off lighting fixtures (fixtures designed to ensure that no light is emitted above a horizontal line parallel to the ground) shall be 30 feet above grade.

#### **D. Non-Directional Lighting**

The maximum height for non-directional lighting fixtures (fixtures designed to allow light to be emitted above a horizontal line parallel to the ground) shall be 15 feet above grade. Non-directional lighting fixtures shall be translucent or have baffles to prevent views of the light source.

#### **E. Canopy Lighting**

Under canopy lighting shall be restricted to lighting fixtures (including lenses) that do not project below the bottom of the canopy.

#### **F. Glare**

Lighting shall be oriented not to direct glare or excessive illumination onto streets in a manner that may distract or interfere with the vision of drivers on such streets.

#### **G. Accent Lighting**

Lighting fixtures used to accent architectural features, landscaping or art shall be located, aimed or shielded to minimize light spill into the night sky.

#### **H. Blinking or Flashing Lights**

Blinking or flashing lights shall be prohibited unless the lights are required as a safety feature (e.g. beacons on towers) or permitted as part of a sign in accordance with Article 11, Sign Standards.

#### **I. Non-Conformities**

Lighting fixtures existing as of June 12, 2000 may remain, and shall be considered nonconforming structures. Modifications, replacement or expansions, shall conform to the standards of this Ordinance.

### Sec. 7.5 Outdoor Display and Storage

[Paragraphs not listed remain unchanged]

#### 7.5.2 Outdoor Display

- B. Except in association with agricultural uses, outdoor display shall be **indicated on** a site plan illustrating the extent of the permitted area for outdoor display **pursuant to** the standards below:
1. All products displayed shall be located outdoors only during the hours the use is open for business;
  2. **The display area s** shall be located no closer than five feet from any public entrance;
  3. **The display area s** shall occupy no more than 50% of the building frontage;
  4. **The display area s** shall not block sidewalks or parking areas, and shall not impede pedestrian or vehicular circulation; and
  5. **The display area s** shall not be located in a public right-of-way except in the Downtown Tier, subject to other applicable requirements.

#### **7.5.3 Outdoor Storage**

##### **B. Class A Outdoor Storage**

1. Class A outdoor storage is defined as garden supplies, building supplies, plants, vehicle sales and services, manufactured home sales, play equipment, and other similar items.
2. Areas used for Class A outdoor storage shall be permitted following review and approval of a site plan illustrating the extent of the area proposed for outdoor storage, provided it meets the following standards:
  - c. Outdoor storage **can** be located to the side of a building, provided it is not located within the side yard.
  - d. Any rear yard **can** be used for outdoor storage purposes, except in the SRP District.

##### **C. Class B Outdoor Storage**

2. In addition to the requirements of paragraph B.2 above, areas used for Class B outdoor storage shall be screened from view from the public right-of-way, public vehicular use areas, or adjacent residential development pursuant to Sec. 9.7, Screening.

#### **Sec. 7.6 Utility and Solid Waste Facilities**

[Paragraphs not listed remain unchanged]

##### **7.6.1 Applicability**

This section shall apply to all on-site solid waste, utility, and other mechanical equipment facilities serving non-residential and multifamily development.

##### **7.6.2 Location**

- A. All utilities (including heating or air conditioning units and other mechanical equipment) and solid waste facilities shall be located on the same lot as the use served unless shared facilities are approved by the approving authority with evidence of a shared facility agreement between all property owners.
- B. Such facilities shall be located beyond the minimum or maximum street yard, as applicable.

##### **7.6.3 Screening**

All screening of utility and solid waste facilities shall be pursuant to Sec. 9.7, Screening.

##### **7.6.4 Additional Requirements for Solid Waste Facilities**

- A. All required solid waste facilities shall be designed with appropriate means of access to a street or alley in a manner that will least interfere with traffic movement, and will most facilitate the service of the facilities.
- B. When the service side is visible from an adjacent property line, or adjacent public streets or public trails, access gates or doors with opacity of at least 85% shall be required.
- C. Space allocated to any solid waste facility shall not be used to satisfy the space requirements for off-street parking or loading facilities, nor shall any parking or loading spaces be used to satisfy the space requirements for any solid waste facility.
- D. All solid waste facilities shall be designed to prevent wind-blown debris from leaving the site.
- E. All food-related businesses shall provide water quality treatment in conformance with applicable standards and design guidelines for runoff from solid waste facilities.
- F. **Additional Standards for Design Districts**
  - 1. All new development, not including parking structures, of 100,000 square feet or greater shall provide trash compactors on site.
  - 2. Where shared solid waste facilities exist on sites to be redeveloped, the redevelopment shall continue to accommodate sufficient shared facilities.
  - 3. Site design shall not require solid waste collection vehicles to back out of sites.
  - 4. A site can be designed to allow solid waste collection vehicles to back a maximum of 40 feet into sites given the following criteria:
    - a. Pickup only occurs during off-peak hours, as determined by the Transportation Director or designee;
    - b. The street is not a State-maintained road; and
    - c. The development is on a lot of one acre or less.
  - 5. A dedicated area for the separation, collection, and storage of recyclables shall be provided.

## **Sec. 8.3 Tree Protection and Tree Coverage**

[Paragraphs not listed remain unchanged]

### **8.3.1 Tree Coverage Standards**

#### **C. Tree Coverage**

##### **3. Locations**

- a. Tree coverage areas in new subdivisions shall be located in common open space or buffers required by other provisions of this Ordinance, except that new subdivisions without buffers that make payment in lieu of required open space under Section 7.2.2, Required Open Space, can locate tree coverage areas on private lots or as otherwise specified below.
- b. Any forested land in the floodway, non-encroachment area, floodway fringe, non-encroachment area fringe, or Areas of Shallow Flooding (Zone AO) (unless proposed to be filled or developed in accordance with Sec. 8.4.4, Development in Special Flood Hazard Areas and Future Conditions Flood Hazard Areas), preserved wetlands and wetland buffers, steep slope areas, riparian buffers, Durham Natural Inventory Sites, Major Transportation Corridor (MTC) buffers, and any portion of the tract left

undisturbed in order to create required perimeter buffers that satisfies the minimum size requirements established in Sec. 8.3.1D , Preserved Tree Coverage, or Sec. 8.3.1E, Replacement Tree Coverage, below [can](#) be used as tree cover.

4. Tree coverage standards [can](#) be met either by preserving existing trees on the site, by planting replacement trees, or a combination of both.

#### **D. Preserved Tree Coverage**

2. Tree preservation areas shall be located in the areas listed in Sec. 8.3.1, Tree Coverage Standards, above. Additional tree preservation areas [can](#) be located outside of these areas, in which case they shall be located in order to preserve specimen trees and to preserve clusters of trees.

##### **3. Clusters of Trees**

- b. For parcels greater than one acre, no tree preservation area for a cluster of trees [shall](#) be counted toward meeting the tree coverage standard unless it includes a minimum of 1,000 square feet (or such smaller area as required by paragraph 8.3.1C.4 above) and has no individual dimension of less than 13 feet. The area protected [shall](#) include the entire root protection zone of the tree cluster, and adequate tree protection measures, as defined in paragraph 8.3.2, Protection of Existing Vegetation, [shall](#) be taken during the construction and grading of the project.
- c. For parcels one acre or less, no single tree preservation area for a cluster of trees [shall](#) be counted toward meeting the tree coverage standard unless it includes a minimum of 500 square feet (or such smaller area as required by paragraph 8.3.1C.4 above) and has no individual dimension less than 13 feet.

#### **4. Individual Trees**

- c. An individual tree [can](#) be counted toward tree coverage credit provided that its diameter is eight inches dbh or greater.

##### **5. Construction in Preserved Tree Coverage Area**

- a. Preserved tree coverage areas shall not be used for active recreational purposes, except the following:
  - ii. Paved trails that are public trails and are shown on the most recent version of the Durham Trails and Greenways Master Plan. In no case shall the clearing of the trail corridor exceed 16 feet in width.

#### **E. Replacement Tree Coverage**

Areas proposed as tree replacement shall meet the following requirements to satisfy the standards found in paragraph 8.3.1C, Tree Coverage:

1. For parcels greater than one acre, no tree replacement area [shall](#) be counted toward meeting the tree coverage standard unless it includes a minimum of 1,000 square feet (or such smaller area as required by paragraph 8.3.1C.4 above) and has no individual dimension of less than 25 feet.
2. For parcels one acre or less, no tree replacement area [shall](#) be counted toward meeting the tree coverage standard unless it includes a minimum of 500 square feet (or such smaller area as required by paragraph 8.3.1C.4 above) and has no individual dimension less than 15 feet.

5. A minimum of 50% of replacement trees shall be large, maturing, hardwood species native to Durham County. The remainder of the replacement trees shall be a mix of canopy and understory hardwood and non-hardwood species native to Durham County, as long as no more than 50% of this remainder are pines. Replacement trees shall be provided as a mix of species, in accordance with the standards set in paragraph 9.2.3B.6, Mixing of Tree Species.
7. Where evidence can be provided that a portion of a development tract has been in continuous agricultural use since January 1, 1980, the tree coverage standard indicated in paragraph 8.3.1C, Tree Coverage, [can](#) be reduced by the proportion of the entire development tract that is in such agricultural use, up to 33%. Such portion of the tract shall not be required to remain in agricultural use upon approval of a site plan by the approving authority. Tree coverage requirement reductions under this paragraph shall not apply to nonresidential development.

### **8.3.2 Protection of Existing Vegetation**

- C. A tree protection fence constructed of a material resistant to degradation by sun, wind, and moisture for the duration of the construction, shall be installed at the same time as the erosion control measures, and shall remain in place until all construction is complete. Such fencing shall be mounted on metal posts placed no further than ten feet apart. Silt fencing shall not serve as tree protection fencing.

### **8.3.5 Specimen Trees**

- A. A specimen tree shall be defined as any evergreen canopy tree eighteen (18) inches dbh or greater, any deciduous canopy tree twelve (12) inches dbh or greater and any understory tree (deciduous or evergreen) eight (8) inches dbh or greater, except any tree listed as a non-native invasive plant by the US Forest Service or prohibited in the *Landscape [Manual](#) for Durham, North Carolina* pursuant to Sec. 9.2.1, Landscape Manual.

## **Sec. 8.4 Floodplain and Flood Damage Protection Standards**

[Paragraphs not listed remain unchanged]

### **8.4.2 Applicability**

- A. generated as a requirement of Sec. 3.21.2.B (11 & 12), Duties and Responsibilities;

### **8.4.3 Standards**

#### **A. General**

9. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility [can](#) be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to the certification requirements in Sec. 3.21, Floodplain Development Permit.

#### **B. Specific Standards**

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided and in Future Conditions Flood Hazard Areas where future conditions flood elevations data has been provided, as set forth in Sec. 8.4.2, Applicability, or Sec. 3.21.1.B (11 & 12), Duties and Responsibilities, the following provisions are required:

### **1. Subdivisions**

- a. Land in the Special Flood Hazard Areas and Future Conditions Flood Hazard Areas **can** be used for the following purposes, provided that such uses are designed and constructed to minimize clearing, grading, erosion and water quality degradation and are in compliance with the Sec. 8.4, Floodplain and Flood Damage Protection Standards. Land within Special Flood Hazard Areas and Future Conditions Flood Hazard Areas shall not serve to meet minimum lot size requirements, except in the Rural Tier and on property zoned RR or RS-20 in the Suburban Tier where at least 50% of the required lot area is located outside the floodway or non-encroachment area or floodway fringe.

### **3. Non-Residential Construction**

New construction or substantial improvement of any commercial, industrial (other than hazardous, solid waste, salvage yards, chemical storage facilities or similar uses which are prohibited) or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation. Structures located in AE and X (Future) Zones **can** be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure below the required flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in the certification requirements in Sec. 3.21, Floodplain Development Permit.

### **5. Elevated Buildings**

- a. Measures for complying with this requirement shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. To meet this requirement, the foundation must either be certified by a professional engineer or architect or meet the following minimum design criteria:
  - (5) Openings **can** be equipped with screens, louvers, or other opening coverings or devices provided they permit the automatic flow of floodwaters in both directions. For purposes of this provision, vinyl or sheet metal skirting shall not be considered an enclosure for regulatory and flood insurance rating purposes and therefore shall not require hydrostatic openings.

### **9. Accessory Structures**

- g. An accessory structure with a footprint less than 150 square feet does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with the certification requirements in Sec. 3.21, Floodplain Development Permit.

## **C. Floodplains without Base Flood Elevations**

- 2. The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:
  - a. If Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with

all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in paragraph 3.21.2.B (11&12).

**F. Standards for Areas of Shallow Flooding (Zone AO)**

2. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Sec. 8.4.3.F.1 so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as per Sec. 3.21.6, Certification Requirements, and Sec.

8.4.3.B.3, Non-Residential Construction.

**8.4.4 Development in Special Flood Hazard Areas and Future Conditions Flood Hazard Areas**

**B. Development Requiring Floodplain Administrator Approval**

The following shall only require Floodplain Administrator approval in association with any applicable site plan, plat, construction drawings, or building permit approval.

1. Development of, or substantial improvements to, a single-family or duplex structure, and associated site improvements such as accessory structures, driveways, walkways, and utility crossings, on a single lot of record recorded on or before January 1, 2006, or recorded prior to being mapped in the floodway fringe, non-encroachment area fringe, or Areas of Shallow Flooding (Zone AO). Such projects can utilize fill, pursuant to a floodplain development permit per Sec. 3.21, Floodplain Development Permit, in the floodway fringe, non-encroachment area fringe, or Zone AO.
2. Floodproofing or elevation by design in lieu of required fill for new construction or substantial improvements on lots of record that were recorded on or before January 1, 2006, pursuant to a floodplain development permit issued under Sec. 3.21, Floodplain Development Permit. If the Floodplain Administrator approves floodproofed or elevated-by-design construction or improvements rather than use of fill in Zone AE or Zone X (Future), the approval shall specify the minimum foundation opening requirements and limitations on below-BFE enclosures uses, if applicable.
3. The following uses of land in Special Flood Hazard Areas or Future Conditions Flood Hazard Areas. Fill can be used in support of such uses.
  - a. Parks, playgrounds, trails, ballfields, and other similar recreational facilities.
  - b. Constructed or restored wetlands or riparian buffers.
  - c. Utility crossings to connect to existing facilities where it is the most direct connection, as specified by the Public Works Director, or designee. Crossings shall be perpendicular from the facility to the connection, with an allowable 15 degree variation. A non-perpendicular route shall be used if it is demonstrated to cause less disturbance than the perpendicular route.
  - d. Crossings by streets, driveways, pedestrian walkways, and railroads where no other option is available. Crossings shall be perpendicular from the facility to the connection, with an allowable 15 degree variation. A non-perpendicular route shall be used if it is demonstrated to cause less disturbance than the perpendicular route.

**C. Development Requiring a Minor Special Use Permit**

The following shall require approval of a minor special use permit pursuant to Sec. 3.9, Special Use Permits, including the additional review factors per paragraph 3.9.8C.

**1. Fill or Development in the Floodway Fringe or Non-Encroachment Area Fringe**

Any fill or development (e.g., parking or floodproofing or elevation by design) in the floodway fringe, non-encroachment area fringe, or Areas of Shallow Flooding (Zone AO) that is not under the approval authority of the Floodplain Administrator pursuant to paragraph 8.4.4B, Development Requiring Floodplain Administrator Approval. In addition to the findings required in paragraph 3.9.8A, the Board of Adjustment shall also find that:

**2. Fill or Development in the Floodway or Non-Encroachment Area**

Land in the floodway or non-encroachment area can be used for the following purposes that do not qualify for Floodplain Administrator approval pursuant to paragraph 8.4.4B, Development Requiring Floodplain Administrator Approval, and may be filled in support of such uses, if the certification required under paragraph 8.4.3C, Floodplains without Base Flood Elevations, paragraph 8.4.3D, Floodplains with Base Flood Elevations but no Established Floodway or Non-Encroachment Areas, or paragraph 8.4.3E, Floodway and Non-Encroachment Areas, as appropriate, has been provided:

- a. Crossings by streets, driveways, pedestrian walkways, and railroads.
  - b. Intakes, docks, piers, utilities (including water and wastewater treatment, including stormwater control and sedimentation and erosion control facilities), bridges, other public facilities and water-dependent structures.
  - c. Other encroachments authorized by FEMA.
- D. No density credit shall be allowed for land in the floodway or non-encroachment area, except in the RR District where 100% density credit shall be given for land in the floodway or non-encroachment area in Conservation Subdivisions pursuant to Sec. 6.2.4, Conservation Subdivision.
- E. The amount of land in the floodway fringe or non-encroachment area fringe shall be credited for residential density on adjacent land in the same development at a rate of 50% of that allowed by the zoning, except in the RR District where 100% density credit shall be given for land in the floodway fringe or non-encroachment area fringe in Conservation Subdivisions pursuant to Sec. 6.2.4, Conservation Subdivision.

**Sec. 8.5 Riparian Buffer Protection Standards**

[Paragraphs not listed remain unchanged]

**8.5.10 Uses**

- E. Where any use involves temporary land clearing, revegetation shall occur pursuant to an approved vegetation plan. Such plan shall include trees as specified under paragraph 9.2.3B.6, Mixing of Tree Species, and the Durham *Landscape Manual*, planted at a density sufficient to provide 320 trees per acre at maturity with at least 50% of those trees having the potential of attaining a two and a half inch or greater dbh within seven years.

**8.5.12 Mitigation**

**E. Riparian Buffer Restoration or Enhancement**

5. The applicant shall first receive an Authorization Certificate for the proposed use according to the requirements of paragraph 8.5.11, No Practical Alternatives/Authorization Certificate.



The applicant shall then submit a restoration or enhancement plan to the City or County as appropriate. The restoration or enhancement plan shall contain the following:

- b. A vegetation plan. The vegetation plan shall include trees as specified under paragraph 9.2.3B.6, Mixing of Tree Species, and the Durham *Landscape Manual*, planted at a density sufficient to provide 320 trees per acre at maturity with at least 50% of those trees having the potential of attaining a two and a half inch or greater dbh within seven years;

### **8.5.13 Variances**

A person who wishes to undertake a prohibited use shall first submit a request for a minor or major variance to the appropriate jurisdiction as stated below. A minor variance is required for any activity that impacts only the outer 20 feet of a riparian buffer. A major variance is required for any activity that impacts any portion of the inner 30 feet of a riparian buffer. Such variances are separate from variances authorized under Sec. 3.14, Variance.

## **Sec. 8.7 Watershed Protection Overlay Standards**

[Paragraphs not listed remain unchanged]

### **8.7.2 General Requirements**

#### **B. Impervious Surface Limits**

2. The impervious surface limit provisions of this section **can** be exceeded through an impervious surface credit transfer. Credit for the impervious surfaces allowed on one or more parcels ("donor parcels") **can** be transferred to non-contiguous parcels ("receiving parcels"), such that the amount of impervious surface available for a development project would be the total of what is normally allowed on the receiving parcel plus what is transferred from the donor parcel(s). Impervious surface credit transfer is subject to the following provisions:

## **Sec. 8.8 Steep Slope Protection Standards**

[Paragraphs not listed remain unchanged]

### **8.8.3 Steep Slope Areas**

#### **A. Applicability**

1. Steep slope areas refer to natural grades and shall not include man-made grades.
2. Slope is the relationship of vertical rise to horizontal run, expressed as a percentage. Steep slope areas shall be defined as land areas that:
  - a. Have a grade of 25% or more;
  - b. Have an area of 5,000 square feet or greater; and
  - c. Are located within 200 feet of any floodway fringe or perennial stream or within 100 feet of an intermittent stream.

**B.** Slope calculations shall use the smallest contour interval for which maps are available. Steep slope areas shall be determined irrespective of tract boundaries.

**C.** Steep slope areas shall be clearly indicated on all site plans, development plans, preliminary plats and final plats. When a property owner or developer believes that the presence or location of a steep slope area is different than what is shown on the appropriate topographic map, the property owner or developer shall provide a field survey to determine

the location or presence of the moderate or steep slope area for purposes of meeting the requirements of this section.

#### **8.8.4 Steep Slope Development Limitations**

Development and land disturbing activity on steep slope areas shall be conducted only in accordance with the following requirements. Compliance with these requirements shall be determined by the approving authority.

- A. The grade of reconstructed slopes shall not exceed 50%.
- B. On any tract proposed for construction, no more than 15% of the steep slope area on the tract shall be graded. For purposes of this calculation, the land areas of individual steep slope areas on the tract shall be added together to establish the total steep slope area for the tract.
- C. Proposed right-of-way for major thoroughfares, minor thoroughfares and collector streets shall be exempt from the steep slope area grading limits of this section.

#### **8.8.5 Density Credits**

The amount of land designated as steep slopes shall be credited for residential density on adjacent land in the same development at a rate of 15% of that allowed by the zoning.

### **Sec. 9.1 General**

[Paragraphs not listed remain unchanged]

### **Sec. 9.2 Landscape Design**

[Paragraphs not listed remain unchanged]

#### **9.2.1 Landscape Manual**

The *Landscape Manual for Durham, North Carolina*, also referred to as the *Landscape Manual*, shall be maintained by the Planning Director or designee, approved by the JCCPC pursuant to paragraph 2.2.3C, and shall provide the following:

- A. A list of species that shall be used within the City and County of Durham, including appropriate applications and specifications, to satisfy the requirements of this Article for site plans and preliminary plats.
- B. Diagrams depicting required planting methods that shall be included, as applicable, on site plans and preliminary plats .
- C. Diagrams depicting required tree protection fencing specifications that shall be included, as applicable, on site plans and preliminary plats.
- D. Diagrams illustrating recommended methods for buffer depictions on site plans and preliminary plats.
- E. Recommended best practices for landscaping methodologies including, but not limited to, “water-wise” approaches to landscape materials and incorporation of Crime Prevention Through Environmental Design (CPTED) principles.

#### **9.2.2 Basic Plant Types**

##### **C. Deciduous Understory Trees**

Small deciduous trees or large deciduous shrubs with a mature height of 10 to 30 feet.

### 9.2.3 Plant Material Requirements

#### B. Trees

##### 1. Deciduous Canopy Trees

Deciduous canopy trees shall have a minimum size of two-inch caliper at time of planting, unless permitted under paragraph 8.3.1E.3.

##### 3. Deciduous Understory Trees

###### 5. Tree Spacing

- a. Canopy trees shall be planted at least 18 feet apart.
- b. Deciduous understory trees shall be planted at least 12 feet apart.
- c. The spacing between canopy and deciduous understory trees shall be at least 6 feet.

##### 6. Mixing of Tree Species

#### C. Shrubs

##### 1. Deciduous and Evergreen Shrubs

- d. When planted as a hedge, the maximum spacing for 24-inch high shrubs shall be 36 inches on center. Spacing for other size shrubs shall be as specified within the *Landscape Manual* pursuant to paragraph 9.2.1, *Landscape Manual*.

#### D. Plant Species List

1. A list of plants by type and appropriate location or use to satisfy the requirements under this Article shall be maintained within the *Landscape Manual* pursuant to paragraph 9.2.1, *Landscape Manual*.
2. A list of prohibited plants identified as inappropriate for use within Durham City and County shall be maintained within the *Landscape Manual*. These plants shall not be used to satisfy landscaping requirements, either as existing or proposed plant material.
3. When a species or cultivar is proposed for use but is not listed within the *Landscape Manual*, a professional urban forester or certified plant professional shall certify that the use of the plant material is appropriate for the intended use and location, and that it does not have invasive tendencies.

### 9.2.5 Installation

#### A. Easements

1. Trees can be planted in access or utility easements, including stormwater BMP facilities, provided that they are a species adapted for the nature of the easement and, in all easements other than overhead utilities, the entity responsible for the easement approves the location of the trees proposed for planting.
2. Existing trees can remain in dry detention ponds provided that the natural grade is undisturbed in the root protection zone, they are a species adapted to seasonal flooding, and it is documented that the pond shall be adequately maintained without disturbance to root protection zones.
3. Shrubs shall be installed at least five feet away from the flow line of a swale.
4. Shrubs can be planted in a public utility easement provided they are planted only within the outer three feet of the easement and are approved by the utility provider.

#### C. Groundcovers and Mulch

1. Groundcovers **can** be planted around trees, provided they are located outside of the planting hole.
2. Mulch shall be used in all areas where no other ground cover or grass is used to avoid bare spots.

### **Sec. 9.3 Existing Vegetation Credits for Required Landscaping**

[Paragraphs not listed remain unchanged]

#### **9.3.1 Existing Vegetation**

- A. Healthy vegetation that is retained **can** be credited toward landscaping requirements.

#### **9.3.2 Existing Trees**

- A. Healthy canopy trees **can** be retained and credited toward landscaping requirements if each tree proposed for credit has a dbh of at least one inch, or larger if specified elsewhere in this ordinance, and all requirements of paragraph 8.3.2, Protection of Existing Vegetation, are satisfied. Credit given for existing, healthy, protected trees shall be a number equal to the value of the dbh of each protected tree divided by two inches, but no fraction thereof.

#### **9.3.3 Sampling**

- A. All trees, shrubs and groundcover within a minimum 20 foot by 20 foot area for each unique stand of vegetation proposed to be retained shall be inventoried and identified on the landscape plan. Photographs **can** be used to supplement the sample but shall not replace it. For purposes of determining preserved tree coverage, shrubs and groundcover need not be included in the sampling.
- B. The Planning Director, or designee, **can** require additional sample areas as needed to ensure a representative sample of the existing vegetation.

### **Sec. 9.4 Project Boundary Buffers**

[Paragraphs not listed remain unchanged]

#### **9.4.3 Standards**

##### **B. Project Boundary Buffer Table**

**How to use this table:** The second number represents the Total Buffer, which normally occurs across the property line, with unequal responsibility for buffering on both sides of the line based on intensity of the use or district. Therefore:

1. The first number indicates the required opacity when adjacent to vacant land;
2. The second number is the opacity required when adjacent to a development without a buffer.
3. If a buffer exists on adjacent property, the required opacity on the property to be developed shall be the difference between the opacity on the adjacent property from the total, or second, opacity number.
4. A zero means no project boundary buffer is required.

#### **9.4.4 Natural Buffers**

##### **B. Natural Buffer as an Option**

In the Urban Tier and in projects in the Rural and Suburban Tiers that do not require use of a natural buffer, a natural buffer **can** be employed. A minimum natural buffer width of 25 feet or the width required to satisfy Sec. 9.4.5, Constructed Buffer, whichever is greater, shall be required in these instances.

**D. Additional Planting**

If a natural buffer does not meet the opacity standards required by paragraph 9.4.3B, Project Boundary Buffer Table, then additional plant material based upon the applicable planting table in paragraph 9.4.5, Constructed Buffer, shall be provided to meet those standards. Sampling of existing vegetation within a natural buffer pursuant to Sec. 9.3.3, Sampling, shall be required to determine if it meets this standard.

**9.4.5 Constructed Buffer**

**A. Plant Units**

1. The following plant unit alternatives **shall** be used, unless otherwise specified in this Article, to satisfy the project boundary buffer requirements:
  - e. Alternative 5: Intense
3. Alternative 4, Overhead Utility, shall be permitted only where overhead utilities would conflict with the drip-line of canopy trees. **B. Rural and Suburban Tier**
3. Buffer widths **can** be reduced by up to 25% through the incorporation of a wall or berm pursuant to Sec. 9.4.8, Walls, Berms and Fences in Buffers. Application of this reduction in width shall provide a corresponding reduction in the number of required shrubs.

**C. Urban, Compact Neighborhood, and Downtown Tiers**

1. The buffer width and planting requirements in the table below shall be used to meet the opacity standards established in paragraph 9.4.3B, Project Boundary Buffer Table for the Urban Tier and those areas of the Downtown and Compact Neighborhood Tiers that adjoin development in the Urban or Suburban Tiers and the opacity standards established in paragraph 9.4.1C for Design Districts.
  - <sup>2</sup> A solid hedge composed of a minimum of 40 evergreen understory trees per 100 linear feet can be substituted for a 6-foot wall.
2. The interactive buffer model established pursuant to paragraph 9.4.7, Interactive Buffer Model, shall be permitted to calculate acceptable reductions in buffer width or variable mixes of plant units. The model **can** also be used when the slope of the buffer is at least 15%, as set forth in paragraph 9.4.5D, Existing Slope Impacts.

**D. Existing Slope Impacts**

**1. Buffers with at Least 15% Slope**

**b. Downslope Buffer**

- (1) Where the area containing the buffer slopes down from the adjacent property line toward the interior of the project site at a slope of at least 15% but less than 25%, the buffer may be less effective because roof areas may be exposed (the adjacent property looks down onto the proposed site).

In such cases, a steep slope buffer retaining the forest cover, or a standard project boundary buffer can be used.

**c. Upslope Buffers**

- (1) Where the area containing the buffer slopes up from the adjacent property line toward the interior of the project site at a slope of at least 15% but less than

25%, the buffer may be more effective due to the masking potential of the slope. In such cases, a standard project boundary buffer, a steep slope buffer, or the interactive buffer model established pursuant to Sec. 9.4.7, Interactive Buffer Model can be utilized.

**E. Specimen Trees Retained**

Existing specimen trees, as defined in paragraph 8.3.5, Specimen Trees, that are located within a required project boundary buffer shall be retained, except where the removal of such trees is required to provide safe and reasonable access to the property.

**F. Buffer Width Modification**

Buffer width shall normally be calculated as perpendicular to the property line, however, width modifications are allowed and shall be calculated based on the average width of the buffer per 100 feet or portion thereof.

1. In no case shall the minimum width of the buffer be less than one-half the required width.
2. The maximum width, for the purposes of installing required landscaping or receiving credit for existing vegetation, shall not be more than one and one-half times the required buffer width.

**9.4.6 Off-Site Vegetation**

- A. Existing plant material on adjacent property can be credited toward buffer requirements, provided that such material is in a permanently protected area such as a conservation easement or similarly preserved area.
- B. Plant material, either existing or proposed, on an adjacent property can be credited toward buffer requirements through use of a landscape easement.

**9.4.7 Interactive Buffer Model**

**A. Alternative Buffers Permitted**

To allow flexibility in buffer design, the interactive buffer model, maintained by the Planning Director or designee, can be used to create a buffer meeting or exceeding the opacity standards using a variety of widths, plant material, walls or berms under the following circumstances:

1. In the Downtown, Compact Neighborhood, and Urban Tiers, the interactive buffer model can be used; however, no alternative buffer shall be permitted to be less than one-half the minimum width shown in the tables in Sec. 9.4.5C, Urban, Compact Neighborhood, and Downtown Tiers, above.
2. In the Rural and Suburban Tiers, the interactive buffer model shall not be used, except where the slope of the buffer exceeds 15%. Buffer width shall not be reduced through use of the model.

**B. Settings of the Model**

Settings for the interactive buffer model are maintained at the offices of the Planning Department. Model settings can be obtained upon request at the Planning Department during normal business hours.

**9.4.8 Walls, Berms and Fences in Buffers**

**A. Walls**

1. Walls located within a buffer can be used to permit a reduction the buffer width pursuant to Sec. 9.4.5, Constructed Buffer.

2. All walls, when located within a buffer, shall have planted on the side facing the adjacent property with at least one upright shrub for every six feet of wall length. These shrubs **can** be counted towards meeting the opacity requirement for the buffer.
6. Within the CI District and Design Districts, no project boundary buffer shall be required when the adjoining lot has a wall included as part of a required buffer, the wall is located within five feet of the property line, and a recorded easement exists for the wall and buffer.

**B. Berms**

1. Berms located within a buffer **can** be used to permit a reduction in buffer width in the Suburban and Rural Tiers.
2. The minimum height shall be four feet.
3. Berms shall have side slopes of not less than three feet horizontal for each one foot vertical and a minimum crown width of two feet. Prior to issuance of the first certificate of compliance, berms shall be planted to ensure coverage by live plant material within five years.

**9.4.10 Permitted Activity Within Project Boundary Buffers**

- A. Driveways, walkways, and utilities **can** cross a project boundary buffer, provided they cross at a maximum of 15 degrees from perpendicular.
- B. Stormwater management facilities **can** be located in a buffer provided that an upland area that meets or exceeds the opacity requirements of Sec. 9.4.3B, Project Boundary Buffer Table, is provided.

**Sec. 9.6 Street Trees**

[Paragraphs not listed remain unchanged]

**9.6.2 Required Street Trees**

- B. The location of street trees can be varied, as long as the separation between each tree does not exceed 100 feet, measured between the centerline of each trunk. If existing obstructions, access points, or sight distance triangles prevent compliance with the maximum separation requirement, the separation can exceed the maximum only to the extent necessary to avoid the obstruction, access point, or sight distance triangle.

**C. Street Trees in the CI District and Design Districts**

**3. Alternative Street Tree Requirement**

- a. If the prescribed street tree location is in conflict with any public utility or traffic control device, an alternative **can** be provided in lieu of the street tree requirement.
- b. Where development incorporates existing buildings and the distance from the back-of-curb to the building face is less than 10 feet, an alternative **can** be provided in lieu of the street tree requirement.

**9.6.3 Credit for Existing Trees**

- A. Developers **can** use existing trees to meet the requirements of this section, as long as existing trees are protected in accordance with the standards of Sec. 8.3.2, Protection of Existing Vegetation.
- B. Trees preserved to meet other requirements of this Ordinance **can** be used to meet the requirements of this section as well, provided they meet the minimum size and location requirements of this section.

- C. Trees located in a side yard behind the front building line or located behind any portion of a building cannot be used for credit.

#### **9.6.4 Street Tree Installation**

- B. Street trees shall be at least two and one-half inch caliper, or as permitted within the *Landscape Manual* pursuant to paragraph 9.2.1, *Landscape Manual*.
- D. A contiguous growing area without encroachments shall be provided for each tree as specified in the *Landscape Manual*. Alternative systems to satisfy growing area requirements, such as critical root path systems, can be utilized as specified within the *Landscape Manual*.
- E. Planting location shall take into consideration any roadway widening identified on approved thoroughfare plans but not provided by the development.
- F. Required street trees shall be planted before a Certificate of Compliance is issued, unless the planting has been postponed to the appropriate season in accordance with the requirements of Sec. 9.11.2, Extensions for All Other Development.
- G. In the Core sub-district of Design Districts, a suspended sidewalk system over street tree planting pits shall be utilized to maximize useable sidewalk area.

### **Sec. 9.7 Screening**

[Paragraphs not listed remain unchanged]

#### **9.7.1 Applicability**

- A. Features and uses listed below shall be screened when visible from adjacent properties, and from adjacent streets, pedestrian malls, and public trails.
  - 1. Air handlers, and other similar electrical or mechanical equipment in multifamily or nonresidential development;
  - 4. Solid waste facilities in multifamily or non-residential development, including dumpsters and recycling; and
- C. All rooftop equipment, except solar panels and wind turbines, shall be screened or set back so that it is not visible from ground level at any adjacent right-of-way.

#### **9.7.2 Standards**

- A. The following is required screening material that can be used individually or in combination to provide year-round screening. Solid waste facilities shall only utilize options 1, 2, or 3 below:
  - 1. Solid walls constructed of material per paragraph 9.9.3, Walls;
  - 2. Wood fences with a minimum opacity of 85%;
  - 3. Metal panels with a minimum opacity of 85%;
  - 4. Solid evergreen hedge per paragraph 9.7.2C, Evergreen Hedges;
  - 5. Earth berm constructed pursuant to paragraph 9.4.8B, Berms; or
  - 6. Wood fences or metal panels with an opacity of less than 85% augmented with upright evergreen shrubs planted four feet on center along the length of the screening.
- B. Height.
  - 1. For screening of mechanical equipment and solid waste facilities, the screen height shall be the height of the equipment or facility plus six inches.
  - 2. For all other screening purposes, the screen height shall be a minimum of eight feet.



**C. Evergreen Hedges.**

- 1.** For ground-level air-handlers and other mechanical equipment, plant material shall:
  - a.** Consist of upright shrubs at least 2/3 the height of the facility at the time of installation;
  - b.** Be planted two and one-half feet on center; and
  - c.** Reach the required height within three years of planting.
- 2.** For all other features to be screened, plant material shall:
  - a.** Consist of 40 evergreen understory trees per 100 linear feet;
  - b.** Be at least six feet tall at the time of installation; and
  - c.** Reach a minimum height of eight feet within three years of planting.
- D.** One upright shrub of an evergreen species shall be installed per four linear feet of any screen wall or fence that is visible off-site. This shall not apply to screening around roof-top equipment, if option 6 is used per paragraph 9.7.2A, or for sites within the CI District or Design Districts.

**9.7.3 Credit for Other Landscaping**

Plant material in project boundary buffers [can](#) be counted towards the requirements of this section when located to serve both functions.

**9.7.4 Alternative for Air Handlers and Other Electrical or Mechanical Equipment**

Alternative treatments to minimize the visual impact of ground level or roof-top air handlers and other electrical or mechanical equipment, instead of screening, can be approved through the issuance of a minor special use permit pursuant to Sec. 3.9, Special Use Permit, or a certificate of appropriateness pursuant to Sec. 3.17, Certificate of Appropriateness, as applicable.

**Sec. 9.8 Vehicular Use Area Landscaping**

[Paragraphs not listed remain unchanged]

**9.8.1 General**

**C. Standards**

**1. Location From Edge of Vehicular Use Area**

- a.** No canopy trees used for vehicular use area landscaping credits shall be planted farther than 10 feet from the edge of the vehicular use area.
  - b.** No understory trees or shrubs shall be planted farther than 15 feet from the edge of the vehicular use area.
  - c.** When existing utilities or easements prohibit the placement of trees or shrubs as required above, the placement of the plant material shall be set back the minimum amount necessary to be clear of the utility or easement and to provide the minimum required growing area for the plant material.
  - d.** All shrubs and trees shall be located at least three feet from either the back of curb of the vehicular use area or back of wheel stops.
- 3.** Tree planting and site lighting shall be separated by a minimum of 10 feet to reduce conflicts between mature trees and light standards.
  - 4.** Unless specifically stated otherwise, all canopy trees used for vehicular use area landscaping shall be 2 ½ inch caliper at the time of installation.

5. A contiguous growing area not encroached upon by impervious pavement shall be provided for each tree as specified within the *Landscape Manual*. Sidewalks shall be permitted to encroach for sites within the Urban, Compact Neighborhood, and Downtown Tiers when a critical root path system is implemented pursuant to the *Landscape Manual*.

### **9.8.2 Vehicular Use Area Perimeter Landscaping**

#### **A. Vehicular Use Areas Visible From Streets**

##### **2. Standards**

###### **c. Shrubs**

- (1) Shrubs shall be planted at the rate of one shrub per three linear feet of property line abutting public streets less driveways.

#### **B. Vehicular Use Areas Visible from Adjacent Property**

##### **2. Standards**

- a. The minimum landscaped area shall be large enough to accommodate the plant materials required in paragraph 9.8.2B.2.b below, but shall not be less than six square feet per linear foot of vehicular use area edge facing off site, unless wheel stops are provided, in which case the minimum area [can](#) be reduced to four square feet.

### **9.8.3 Landscaping within Vehicular Use Areas**

#### **B. Standards**

##### **1. General**

- a. Areas used for landscaping shall be provided in the amount equivalent to at least 15% of the vehicular use area, and shall be used for planting trees and shrubs according to the standards below.

##### **2. Trees**

- c. Landscaped areas surrounded by impervious surfaces shall have a minimum width of 10 feet when they include canopy or understory trees, and shall contain at least 200 square feet of growing area per tree, unless a larger growing area per tree is specified in the *Landscape Manual*.

##### **3. Shrubs**

One shrub shall be required per 250 square feet of vehicular use area.

### **9.8.4 Vehicular Use Area Landscaping in the CI District and Design Districts**

#### **B. Standards**

##### **1. General**

## **Sec. 9.9 Fences and Walls**

[Paragraphs not listed remain unchanged]

### **9.9.1 Height**

- B. Fences or walls within required street yards shall comply with the street frontage height standard except for fences or walls in street yards that are located to the rear of a primary

structure. Fences in these locations can be built to the height limit of fences and walls not in street yards, so long as such fences are not within sight distance triangles.

- C. Posts, columns, or other similar vertical fence or wall supports, including lighting and ornamentation on top of supports, shall be exempt from height requirements. To maintain the exemption, material shall not span from one support to another above the maximum height allowed.
- D. [Text remains unchanged]
- E. [Text remains unchanged]

#### **9.9.3 Walls**

- C. Pedestrian connections through walls that connect to adjacent neighborhoods or other uses shall be encouraged. In addition, barbed wire can be used for additional protection of electrical substation in conjunction with other fencing materials in any residential district.

#### **9.9.4 Retaining Walls**

- A. Retaining walls can be located within required yards.

### **Sec. 9.11 Extensions**

[Paragraphs not listed remain unchanged]

#### **9.11.2 Extensions for All Other Development**

- A. In order to ensure compliance and to reduce the potential expense of replacing landscaping or screening materials which were installed at an inappropriate time or under unfavorable conditions, a letter of request for extension of compliance with landscaping requirements **can** be filed with the Planning Director, or designee, which states the reasons why the request is being made., This letter shall acknowledge that the applicant is aware of all landscaping and screening requirements, and will comply with those requirements within 90 days, or discontinue use of the property.
- C. If the initial letter of request for extension of compliance with landscaping requirements has expired and conditions are still deemed unsuitable for planting, an applicant **can** request one additional extension of up to 90 days. During periods of extreme drought, as evidenced by the official declaration of Stage 3 or greater mandatory water conservation requirements, the Planning Director, or designee, may authorize additional 90-day extensions beyond the one extension typically allowed. These extensions may be continued throughout the period in which the extreme drought conditions remain.

## **Article 10 Parking and Loading**

### **Sec. 10.2 General Requirements**

[Paragraphs not listed remain unchanged]

#### **10.2.2 Facilities Required**

- A. Parking facilities for motorized vehicles and bicycles shall be provided for all uses located outside of the Downtown Tier.
- B. Commercial and office developments which provide 400 or more parking spaces shall designate at least 5% of the required spaces as "Park and Ride" spaces; however, no more than 100 spaces shall be required. A sign or signs shall be used to designate that the spaces are reserved for park and ride use during non-holiday weekdays between 6 a.m. and 6 p.m. Park and ride spaces, for the purpose of this paragraph, shall be defined as spaces to be

occupied by vehicles left by individuals who transferred to other modes of transportation for the remainder of their trip to an off-site location (for example, a driver who transferred from a car to a bus or carpool for the remainder of the trip to work or school). Bus shelters shall be required in the vicinity of the Park and Ride area unless DATA, Triangle Transit, or another publicly-sponsored transit provider notifies the Planning Department that a shelter is not required.

### 10.2.3 Vehicle Parking Permitted in Residential Districts and Uses

- A. Other than townhouses and apartments, residential uses shall only utilize designated driveways within any yard area between the primary structure and the street for parking. Driveways shall be surfaced with an all-weather material with edges clearly delineated and, within the area between the primary structure and the street, shall not exceed 25 feet in width unless wider driveways are shown on an approved site plan or plot plan. Except for driveways, no additional curb cuts or vehicle access points shall be permitted. Parked vehicles shall not block pedestrian walkways.

### 10.2.5 Calculation of Spaces

- A. In residential districts in which garage space is shown on the plan, the garage space can be considered in determining whether required parking has been met.
- B. Requirements for the number of parking spaces for motorized vehicles and bicycles for each use are listed elsewhere in this section. The requirements may result in the calculation of a fractional parking space. If the fraction is less than 0.5, the fraction shall be deleted. If the fraction is 0.5 or greater, the fraction shall count as one parking space.

## Sec. 10.3 Required Parking

[Paragraphs not listed remain unchanged]

### 10.3.1 Required Motorized Vehicle and Bicycle Parking

#### A. Parking Rates

1. Rates for off-street motor vehicle and bicycle parking spaces are provided for all uses listed below.
2. Uses not listed shall be reviewed by the Planning Director, or designee, for the appropriate parking rate classification, pursuant to Section 3.1, Interpretation of this Ordinance.
3. Buildings with multiple primary uses shall calculate parking based on the standard for each use in the building, but bicycle parking shall in any case meet the highest minimum standard for the uses.
4. Parking Rate Table

Use Category	Specific Use	Motor Vehicle (MV) Spaces	Minimum Bicycle Parking, except in the Downtown and Compact Neighborhood Tiers
<b>AGRICULTURAL USES</b>			
Agriculture	All agriculture	1 acre or less: None; Greater than an acre: 1 per site + 1 per 1,000 SF enclosed floor area	No spaces required

Use Category	Specific Use	Motor Vehicle (MV) Spaces	Minimum Bicycle Parking, except in the Downtown and Compact Neighborhood Tiers
<b>RESIDENTIAL USES</b>			
Household Living	All household living	2 per unit	Multifamily: 1 per 10 units
Group Living	All group living, except as listed below	1 per 4 beds	Dormitories: 1 per 10 beds
	Boarding house, rooming house	1 per bedroom	1 per 3 bedrooms
	Congregate living facility	1 per 2 units + 1 per 4 employees	1 per 20 employees, minimum 2 spaces
<b>PUBLIC AND CIVIC USES</b>			
Community Service	All community service	1 per 500 SF floor area	1 per 5,000 SF floor area, minimum 2 spaces
	Auditoriums	1 per 200 SF floor area available for seating in places of assembly, minimum 20 spaces	1 per 2,000 SF floor area available for seating in places of assembly, minimum 2 spaces
	Clubs and lodges	1 per 100 SF floor area	1 per 5,000 SF floor area
	Museums	1 per 300 SF floor area, minimum 10 spaces	1 per 3,000 SF floor area, minimum 2 spaces
Day Care	All day care	1 per employee + 1 per each 10 attendees	2% of required MV parking
Educational Facilities	All educational facilities, except as listed below	6 per classroom + 1 per 300 SF floor area of administrative office space	1 per classroom
	Kindergarten, elementary, middle school	1 per classroom + 1 per 300 SF floor area of administrative office space	1 per classroom
	College or University	1.25 per dormroom + 1 per classroom + 1 per 300SF of administrative office space	20% of provided motor vehicle parking
	Distance Learning Center	1 per 300 SF floor area	1 per 5,000 SF floor area, minimum 4 spaces
Government Facilities	City, county, state or federal government office	1 per 300 SF floor area + 1 per 3 employees	1 per 3,000 SF floor area + 1 per 30 employees , minimum 4 spaces
	Correctional facilities, jail, prison	1 per 300 SF office area + 1 per 5 beds	1 per 5,000 SF office area, minimum 4 spaces
	Emergency services, fire, sheriff or medical station	1 per employee per shift + 1 per facility vehicle	1 per 8 employees per shift
Medical Facilities	All medical facilities, except as listed below	1 per 250 SF floor area	1 per 5,000 SF floor area, minimum 2 spaces
	Medical laboratory	1 per 500 SF floor area	1 per 10,000 SF floor area, minimum 2 spaces
	Hospital	1 per 2 beds + 1 per doctor and nurse + 1 per 4 employees	1 per 20 employees
Parks and Open Areas	All parks and open areas except as listed below	See Indoor Recreation or Outdoor Recreation, as applicable	20% of provided motor vehicle parking, minimum 4 spaces
	Court, Basketball	4 per court	20% of provided motor vehicle parking, minimum 4 spaces
	Court, Tennis	3 per court	20% of provided motor vehicle parking, minimum 4 spaces
	Dog park	1 per 1,000 SF	None required
	Field, Baseball or softball	20 per field	20% of provided motor vehicle parking, minimum 4 spaces
	Field, Football or soccer	30 per field	20% of provided motor vehicle parking, minimum 4 spaces

			Minimum Bicycle Parking, except in the Downtown and Compact Neighborhood Tiers
Use Category	Specific Use	Motor Vehicle (MV) Spaces	
	Picnic shelter	1 per table	20% of provided motor vehicle parking, minimum 4 spaces
	Playground	1 per 1,000 SF	20% of provided motor vehicle parking, minimum 4 spaces
	Pool, Indoor	20 per pool	20% of provided motor vehicle parking, minimum 4 spaces
	Pool, Outdoor	10 per pool	20% of provided motor vehicle parking, minimum 4 spaces
	Recreation center	1 per 300 SF floor area	20% of provided motor vehicle parking, minimum 4 spaces
	Trail head	1 per 1,000 linear feet of trail	20% of provided motor vehicle parking, minimum 4 spaces
	Cemetery, mausoleum columbaria, memorial garden	1 per 5 seats in the chapel or assembly area	No spaces required
Passenger Terminals	All passenger terminals	1 per 200 SF waiting floor area + 1 per 2 employees	10% of required MV parking. Minimum 8 spaces. Parking must be covered.
Places of Worship	All places of worship	1 per 28 SF available for seating in the assembly area(s)	5% of provided motor vehicle parking
Social Service Institutions	All social service institutions, except as listed below	1 per 1,500 SF floor area + 1 per employee/volunteer	1 per 5,000 SF floor area , minimum 2 spaces
Utilities	All utilities, except as listed below	1 per 1,000 SF enclosed floor area	2 spaces, where motor vehicle parking is required
	TV/HDTV/AM/FM broadcast facility	1 per 300 SF enclosed floor area	1 per 10,000 SF enclosed floor area
COMMERCIAL USES			
Indoor Recreation	All indoor recreation, except as listed below	1 per 250 SF enclosed floor area	1 per 2,500 SF enclosed floor area, minimum 2 spaces
	Adult establishment, electronic gaming establishment, bar, nightclub, movie or theater	1 per 100 SF of floor area	Movie or Theatre: 1 per 1,000 SF of seating area Others: 1 per 2,000 SF floor area, minimum 2 spaces
Outdoor Recreation	All outdoor recreation, except as listed below	1 per 500 SF of enclosed floor area + 1 per 1,000 SF of outdoor use area	10% of required motor vehicle parking, minimum 4 spaces
	Campground, summer camp	1 per campsite + 1 per employee	5% of required MV parking
	Circus ground	1 per 600 SF of the area devoted to the circus, arcade, concessions, etc.	2% of required MV parking
	Clubhouse and/or pool accessory to a residential development	Design Districts: None All other applicable districts: 1 per 100 SF of pool area or clubhouse area, whichever is greater.	Design Districts: None All other applicable districts: 10% of required motor vehicle parking, minimum 4 spaces
	Firing range, outdoor such as rifle range, archery, skeet, handgun	Min 5 + 1 per firing position	No spaces required
	Golf course, country club (see "restaurants" for additional parking requirements associated with eating facilities)	4 per hole + 1 per 500 SF floor area	5% of required MV parking

			Minimum Bicycle Parking, except in the Downtown and Compact Neighborhood Tiers
Use Category	Specific Use	Motor Vehicle (MV) Spaces	
	Stadium or arena, commercial amphitheater, ballfield	1 per 4 seats	1per 30 seats, minimum 4 spaces, maximum 50 spaces.
Overnight Accommodations	All overnight accommodations, except as listed below	1.25 per room+ 1 per 100 SF conference/banquet/restaurant	1 per 15 rooms + 1 per 2,000 SF conference/banquet/restaurant
	Bed and breakfast establishment	1 per guest room + 2 per owner/manager	No spaces required
	Diet house, emergency shelter	1 per 250 SF floor area	1 per 2,500 SF floor area
Restaurants	All restaurants, except as listed below	1 per 100 SF	1 per 2,000 SF floor area, minimum 2 spaces
Retail Sales and Service	All retail sales and service, except as listed below	1 per 200 SF floor area for the first 50,000 SF of Gross Leaseable Area and 1 per 250 SF of leaseable area after that	1 per 5,000 SF floor area, minimum 4 spaces
	Animal hospital, kennel, or veterinarian	1 per 250 SF enclosed floor area	1 per 10,000 SF floor area, minimum 2 spaces
	Artist gallery, bulk mailing service, psychic, medium, security service, studio, taxidermist	1 per 400 SF floor area	1 per 10,000 SF floor area, minimum 2 spaces Security service, taxidermist: No spaces required
	Outdoor market	1 per 300 SF vendor area	5% of required MV parking
	For developments with more than one business: Storage used as general storage for the facility	1 per 1,000 SF floor area	No spaces required
	Repair-oriented services such as appliance, bicycle, canvas product, clock, computer, gun, jewelry, musical instrument, office equipment, radio, shoe, television or watch repair, locksmith, tailor, milliner, upholsterer	1 per 500 SF floor area	1 per 10,000 SF floor area, minimum 2 spaces
Self-Service Storage	All self-service storage	Min. 5 or 1 per 100 storage units, whichever is greater	Min. 2 or 1 per 750 storage units, whichever is greater
Vehicle Sales and Service	All vehicle sales and service, except as listed below	3 per service bay	1 per 20 employees, minimum 2 spaces
	Car wash	2 per wash bay	1 per 20 employees, minimum 2 spaces
	Vehicle sales, leasing or rental; manufactured housing sales	1 per 500 SF enclosed floor area	1 per 20 employees, minimum 2 spaces
OFFICE USES			
Office	All office uses, except as listed below	1 per 250 SF floor area	1 per 5,000 SF floor area, minimum 2 spaces
	Conference center, retreat house	1 per 250 SF seating area	1 per 5,000 SF seating area, minimum 2
INDUSTRIAL USES			
Heavy Industrial	All heavy industrial	1 per 1,000 SF enclosed floor area	2 spaces required
	Wrecking, junk or salvage yard	1 + 1 per 10,000 SF of yard area	2% of required MV parking

Use Category	Specific Use	Motor Vehicle (MV) Spaces	Minimum Bicycle Parking, except in the Downtown and Compact Neighborhood Tiers
Light Industrial Service	All light industrial service, except as listed below	1 per 1,000 SF floor area	1 per 20,000 SF floor area, minimum 2
	Research and Development	1 per 250 SF floor area of office space + 1 per 1,000 SF floor area of laboratory + 1 per 5,000 SF floor area for greenhouses and other material or mechanical storage areas	1 per 5,000 SF office floor area, minimum 2 spaces + 1 per 20,000 SF floor area non-office, minimum 2 spaces
Resource Extraction	All resource extraction	1 per 2 employees, minimum 3	2 spaces required
Warehouse and Freight Movement	All warehouse and freight movement	1 per 5,000 SF of floor area	2% of required MV parking, minimum 2 spaces
Waste-Related Service	All waste-related services	1 per 500 SF enclosed floor area + 1 per 5,000 SF outside storage area	2 spaces required
Wholesale Trades	All wholesale trade	1 per 1,000 SF floor area	1 per 20,000 SF floor area, minimum 2 spaces

## B. Required Parking

- The amount of motor vehicle parking shall be a percent of the amount indicated in paragraph 10.3.1A.4, Parking Rate Table. The minimum and maximum parking rates are as follows:

Location	Minimum	Maximum
Downtown Tier	None	100%
Compact Neighborhood Tier, CI District	80%	100%
Urban Tier	90%	175%
Suburban and Rural Tiers	100%	175%

**Example:** The parking schedule is a baseline calculator for the amount of motor vehicle parking for a particular use or uses, subject to the location minimum and maximum requirements. For example, if a use, per the parking table, generates a rate of 100 spaces, the amount of parking permitted is as follows:

**Downtown:** Minimum- none; Maximum- 100 spaces

**Compact Neighborhood or CI District:** Minimum- 80 spaces; Maximum- 100 spaces

**Urban:** Minimum-90 spaces; Maximum- 175 spaces

**Suburban and Rural:** Minimum- 100 spaces; Maximum- 175 spaces

- Bicycle parking rates for the Compact Neighborhood and Downtown Tiers shall be pursuant to paragraph 10.3.3, Bicycle Parking in the Downtown and Compact Neighborhood Tiers.



3. The amount of required parking for colleges or universities within the UC or UC-2 districts shall be determined pursuant to paragraph 6.11.4I, Parking.
4. Unless a use is a college or university, passenger terminal, or located in the Downtown or Compact Neighborhood Tiers, the maximum number of required bicycle parking spaces shall be 100.
5. For the North RTP and Triangle Metro Center Compact Neighborhood Tiers: Uses located in these areas approved prior to January 1, 2006, can utilize the minimum and maximum parking rates established for the Suburban Tier until such time as regional mass transit is available in the applicable tier area.
6. Any change of use within an existing building in the Pedestrian Business sub-district of a CD District, or within a CI District, shall not be required to provide additional parking spaces. New buildings or expansion areas of existing buildings within these districts shall be required to meet all off-street motor vehicle parking requirements.

**7. Methods to Exceed Maximum Parking**

The maximum amount of motor vehicle parking can be exceeded by any of the following methods:

- a. The additional parking spaces and drive aisles shall be pervious paving pursuant to the definition of pervious paving in Sec. 16.3, Definitions.
- b. The additional parking spaces shall be provided as structured parking subject to the following requirements:
  - (1) The footprint of proposed structured parking cannot exceed 75% of the footprint of a surface parking lot designed to accommodate 100% parking; and
  - (2) The maximum height shall be the height permitted within the zoning district.
- c. The additional parking spaces are underground where parking areas are not visible from the right-of-way or adjacent properties.
- d. For all sites except in the Downtown Tier and Design Districts: a sealed alternative parking rate analysis, prepared by an engineer with expertise in transportation, that utilizes the following criteria to substantiate the need for additional parking. The City Transportation Director or designee, or NCDOT, as applicable, shall be the approving authority for the analysis.
  - (1) Data or studies of similar sites and uses;
  - (2) Comparisons to minimum standards in national published data sources such as Institute of Transportation Engineers (ITE), Urban Land Institute (ULI), National Parking Association (NPA), American Planning Association (APA), or other professionally recognized data sources; and
  - (3) Comparisons to minimum requirements of similar municipalities.

**8. Parking Reductions Allowed By-Right**

The minimum amount of motor vehicle parking can be reduced using the following methods for a maximum reduction of 20%:

- a. Shared Parking: Proposed developments or change of use with two or more uses can reduce the total minimum parking requirements by a maximum of 20% if the following factors are demonstrated through a parking generation analysis, prepared and sealed by a registered engineer with transportation expertise, documenting the following:

- (1) The peak hours for each use do not overlap, and
  - (2) The proposed amount of parking is sufficient to accommodate the anticipated demands for each of the uses at peak hour.
- b. Additional Bicycle Parking and Public Transit**

A maximum 5% reduction is permitted if either of the following is met, and a maximum of 10% if both are met:

- (1) Proposed development sites or change of use sites where public transit stops exist or will be provided at a location approved by the transit provider as part of the site plan submittal.
  - (a) The stop is within one-quarter mile walking distance; and
  - (b) The stop and development site are connected via an existing or proposed paved and handicap-accessible walkway or sidewalk.
  - (c) Crossings must be at-grade and at appropriate intersections. No mid-block crossings shall satisfy this option.
- (2) An additional six bicycle parking spaces are provided for every one motor vehicle parking space reduced.

**9. Parking Reductions Allowed with a Minor Special Use Permit**

Reductions of more than 20% of required motor vehicle parking shall require the approval of a minor special use permit pursuant to Sec. 3.9, Special Use Permit. In addition to the findings within paragraph 3.9.8A, General Findings, the following findings shall be made:

- a.** Current industry standards and parking rate methodologies were utilized;
- b.** Comparable developments that serve similar population densities or development intensities were studied; and
- c.** The reduction will protect local, state, or federal designated historic resources, if applicable to the site.

**C. Alternate Forms of Compliance**

**1. Off-site parking, including publicly-controlled parking:**

Proposed development can satisfy motor vehicle parking requirements through existing off-site parking not proposed as part of the development site or change of use pursuant to the following criteria:

- a.** All required handicapped accessible parking spaces shall be provided on-site;
- b.** The spaces are not on-street parking spaces;
- c.** The spaces at the donor site are located no further than 1,000 linear feet walking distance to the main entrance of the proposed facility along an existing or proposed public or private (with pedestrian access agreement) paved, handicapped accessible route;
- d.** The walking route to and from the off-site parking does not cross a major thoroughfare or freeway, unless controls are existing or proposed to allow for pedestrian crossing;
- e.** Crossings of right-of-way shall be at-grade at appropriate intersections, and not mid-block;

- f. The spaces provided by the donor site are in excess of the minimum parking requirements for that site, or the shared parking requirements pursuant to paragraph 10.3.1B.8.a, can be satisfied;
  - g. A lease agreement between the record owners shall be required. The owner of the off-site parking area shall enter into a written agreement in a form acceptable to the City or County Attorney, as appropriate, providing that the land comprising the parking area shall never be disposed of except in conjunction with the sale of the building which the parking area serves so long as the facilities are required; and that such agreement shall bind his heirs, successors, and assigns; and
  - h. Residential parking areas cannot serve as off-site parking for non-residential uses.
2. Urban and Compact Neighborhood Tiers, and the CI District:
- For every twenty-three contiguous feet of street frontage for which there is adjacent permitted on-street parking, the minimum required motor vehicle off-street parking shall be reduced by one space.
- a. Credit for on-street parking shall only be counted towards one of the uses in any multi-use development.
  - b. Credit shall not be given for a partial space.
  - c. Credit shall not be given for designated handicapped accessible spaces, loading zones, or taxi stands.
  - d. Credit cannot be used for single-family or duplex residential development.
  - e. On-street parking used to reduce off-street parking is within the public right-of-way and shall remain available for general use subject to public parking standards.

## **Sec. 10.4 Design Standards**

[Paragraphs not listed remain unchanged]

### **10.4.1 General**

#### **A. Location of Parking**

##### **2. Urban Tier**

##### **3. Compact Neighborhood and Downtown Tiers**

- a. In all districts within the Compact Neighborhood Tier and the Downtown Tier, surface parking shall be located adjacent to a street only if, in addition to landscaping materials required pursuant to Sec. 9.8, Vehicular Use Area Landscaping, a wall or decorative fence consistent with the requirements of Sec. 9.9, Fences and Walls, with a minimum height of 30 inches is provided, as applicable:
  - (1) At the build-to line established pursuant to Sec. 6.12, Design Districts; or
  - (2) In a location no further from the right-of-way than the maximum street yard established pursuant to paragraph 6.10.1, Nonresidential Development Standards.

#### **B. Use of Compact Spaces**

Up to 20% of the off-street parking spaces **can** be sized and designated for compact vehicles.

1. Compact parking spaces shall be **signed and/or marked as “Compact”**.
2. No more than 10 compact spaces shall be located in any given row of parking.

#### **10.4.2 Parking Space Design Standards**

##### **A. Dimensions**

###### **1. Area**

###### **a. Standard Spaces**

A required off-street parking space shall be at least eight feet, six inches in width and 18 feet in length exclusive of any access drives, aisles, or columns

###### **5. Alternative Forms of Compliance**

- a. Parking spaces using geometric standards other than those specified in this Ordinance may be approved by the City Transportation Director or designee if the alternative standards are developed and sealed by a registered engineer with expertise in parking facility design, demonstrating that the alternate dimensional standards satisfy off-street parking requirements as adequately as would a facility using standard Ordinance dimensions.
- b. Valet Parking: Valet parking can be approved as a means of satisfying otherwise applicable off-street parking design requirements where all of the following standards are met:
  - (1) Adequate assurance of the continued operation of the valet parking, such as a contractual agreement for valet services or the tenant’s affidavit agreeing to provide such services, is provided;
  - (2) An equivalent number of valet spaces shall be available to replace the required parking spaces. Such valet spaces do not require individual striping, and can include the tandem or mass parking of vehicles.
  - (3) If located off-site, valet parking shall meet the requirements of paragraph 10.3.1C.1, except for paragraph 10.3.1C.1(c).

##### **D. Surfacing**

###### **1. In the Rural Tier**

All required **vehicle use areas and driveways**, except for those associated with single family detached dwellings, shall be covered with an all-weather surface designed to support anticipated loads.

- a. Loose material surfaces shall be contained with a permanent edging.
- b. The surface shall be maintained so that traffic may move safely in and out of the parking area.
- c. When loose material is used, parking blocks are required to designate each parking space when the vehicle use area is greater than ten parking spaces.

###### **2. In All Other Tiers**

###### **a.**

All required vehicle use areas and driveways, and all vehicle use areas and driveways proposed in the Downtown Tier, except for those associated with single-family

dwelling, shall be paved in accordance with standards and specifications of the City Public Works Department.

**b.**

All excess vehicle use areas, and those associated with single-family dwellings, shall be covered with an all-weather surface designed to support anticipated loads.

1. Loose material surfaces shall be contained with a permanent edging.
2. The surface shall be maintained so that traffic may move safely in and out of the parking area.
3. When loose material is used, parking blocks are required to designate each parking space when the vehicle use area is greater than ten parking spaces.

#### **10.4.4 Design Standards for Bicycle Parking**

##### **A. General Standards**

5. Outdoor bicycle parking spaces shall be clearly marked as such and shall be separated from motorized vehicle parking by a physical barrier designed to protect a bicycle from being hit by a motorized vehicle.
6. For outdoor bicycle parking, each bicycle parking space shall be provided with a rack permanently anchored to a foundation to which a bicycle frame and both wheels may be conveniently secured using either a chain and padlock or a U-lock. The rack shall support a standard bicycle frame at two points of contact without damage to frame, wheels, or components. Examples of acceptable rack types are the “inverted U-rack,” and the “swerve rack”.
8. Lighting and other security design features shall be provided in outdoor or structured bicycle parking facilities equivalent to that provided in the facilities for motorized vehicles.

##### **B. Standards for the Downtown Tier and Design Districts within Other Tiers**

###### **2. Standards for Restaurant and Retail Sales and Service Uses**

- b. Bicycle racks can be placed in the public right-of-way with approval from the City or State and where such racks do not conflict with pedestrian use.
- c. In order to reduce streetscape clutter and provide greater visibility for bicycle parking areas, clustered facilities can be provided when located a maximum of 100 feet from the primary building entrance so long as they remain within the blockface.

###### **3. Standards for Residential Uses**

- a. Required residential bicycle parking can only be provided internal to the dwelling unit if a designated bicycle storage space is provided.
- b. The bicycle storage space can be provided within the residential unit or as a designated bike storage area.

###### **4. Standards for All Other Uses**

- b. Bicycle parking in a bicycle storage room, bicycle lockers, or bicycle racks within a building or parking structure can be provided to meet this requirement.

##### **C. Standards for Other Tiers**

1. Bicycle parking locations shall be easily accessible and shall not impede pedestrian or vehicular circulation.

2. Bicycle parking, except as otherwise permitted below, shall be located between the vehicle use area and the facade containing the main entrance of the building. When there are multiple main entrances, bicycle parking shall be distributed to accommodate each entrance.
  - a. For non-residential and multi-family residential uses, bicycle parking can be located up to 100 feet from a main entrance, if the following is provided.
    - (1) The parking area is covered by a permanent canopy.
    - (2) The parking area is visible from the front door of the building's main entrance.
    - (3) The canopy provides at least 72 inches in cover for the direction that bicycles will be oriented.
    - (4) Lighting shall be provided in the bicycle parking area equivalent to that provided in facilities for motorized vehicles.
  - b. Bicycle parking facilities within the CI District shall be located within 50 feet of the primary building entrances and be visible from the public right-of-way. Racks pursuant to paragraph 10.4.4A shall be provided as part of the streetscape amenities.
  - c. Requirements for bicycle parking can be met by other methods as follows:
    - (1) Bicycle storage rooms or bicycle lockers within the primary structure(s);
    - (2) Bicycle racks, pursuant to paragraph 10.4.4.A, or bicycle lockers in a parking structure; or
    - (3) Bicycle racks pursuant to paragraph 10.4.4A within the public right-of-way where such racks do not conflict with pedestrian use and encroachment agreements with the City or NCDOT, as applicable, have been obtained.
3. When a percentage of the required motorized vehicle spaces are provided in a structure, an equal percentage of the required bicycle spaces shall be located inside that structure, unless other accessible, covered bicycle parking is located elsewhere on the site.

## Sec. 10.5 Vehicle Stacking

[Paragraphs and portions of tables not listed remain unchanged]

### 10.5.1 Minimum Number of Spaces

- A. Off-street stacking spaces shall be provided as follows:

Activity type	Minimum stacking spaces in the Design Districts	Minimum stacking spaces in all other districts	Measured from the stacking lane entry to the following point of service:
Schools (kindergarten through grade 12)	As required per NCDOT Municipal and School Transportation Assistance (MSTA) Standards		
Valet parking	2	3	Valet Stand

- B. A minimum stacking space number includes the space at the point of service. A drive-through facility with unspecified activity type shall comply with the most stringent stacking

requirement(s) applicable in the zoning district in which the facility is located as determined by the Planning Director.

- C. Uses not listed shall be reviewed by the Planning Director or designee for the appropriate stacking rate classification, pursuant to Section 3.1, Interpretation of this Ordinance.

#### **10.5.2 Design and Layout of Stacking Spaces** [Text remains unchanged]

#### **10.5.3 Alternate Forms of Compliance**

Alternatives to the requirements indicated above are permitted through approval by the City Transportation Director or designee, or NCDOT, as applicable, of a sealed traffic management plan, prepared by an engineer with expertise in transportation, utilizing one or more of the following:

- A. Collection of data or studies of similar sites and uses;
- B. Comparisons to minimum standards in national published data sources such as Institute of Transportation Engineers (ITE), Urban Land Institute (ULI), National Parking Association (NPA), American Planning Association (APA), or other professionally recognized data sources; or
- C. Comparisons to minimum requirements of similar municipalities.

### **Sec. 10.6 Loading Areas**

[Paragraphs not listed remain unchanged]

#### **10.6.1 Location** [Text remains unchanged]

#### **10.6.2 Surfacing**

##### **A. In the Rural Tier**

All open off-street loading areas shall be surfaced with an all-weather material such as concrete, asphalt, or at least six inches of properly compacted crushed stone, designed to carry the heaviest vehicle loads that can commonly be expected, including the weight of fire and sanitation equipment as well as delivery vehicles. Loading areas surfaced with loose materials such as crushed stone shall provide permanent edging around the area.

##### **B. In All Other Tiers**

All open off-street loading areas shall be paved with an all-weather material such as concrete or asphalt, designed to carry the heaviest vehicle loads that can commonly be expected, including the weight of fire and sanitation equipment as well as delivery vehicles.

#### **10.6.3 Utilization** [Text remains unchanged]

#### **10.6.4 Ingress and Egress**

Each required off-street loading space shall be provided with a means of unobstructed ingress and egress to an alley or onto a public street wide enough to accommodate expected vehicles. Where such ingress and egress is made into a public street, it shall be through driveways or openings which meet required standards. Permanent wheel stops or curbing shall be provided to prevent any vehicle using the loading area from encroachment on the required street yards, side yards, or adjacent property.

#### **10.6.5 Off-Street Loading Requirements**

- B. Off-street loading spaces can be either inside or outside the building and on the same or adjoining lots.
- C. Any loading area outside of the DD District located adjacent to a residential use shall not receive deliveries between the hours of 11 p.m. and 6 a.m.

- D. Loading spaces shall not hinder the movement of traffic or pedestrians.
- E. No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any district.
- F. **Dimensional Requirements**
  - 1. Off-street loading spaces, excluding maneuvering areas, shall be a minimum of 10 feet wide by 25 feet long.
  - 2. Vertical clearance shall be a minimum of 14 feet.

#### **10.6.6 Landscaping and Screening Requirements**

- A. Landscaping in accordance with Section 9.8, Vehicular Use Area Landscaping, shall be provided for loading spaces and associated drive aisles.
- B. Where project boundary buffers are not required, loading docks shall be screened from public streets and adjacent residential property in accordance with screening requirements of Section 9.7, Screening.

#### **10.6.7 Residential Setback Requirements**

A minimum setback of 50 feet shall be required where loading docks face a residential district or a structure with first-floor residential uses, unless the loading area (dock and/or loading spaces) is completely screened from view with a wall in accordance with the requirements of Sec. 9.9, Fences and Walls.

### **Sec. 11.2 General Requirements for Signs**

[Paragraphs not listed remain unchanged]

#### **11.2.2 Sign Calculation Standards**

##### **A. Sign Area**

- 5. All monument signs shall incorporate a street address number or address range. Street address numbers shall be a minimum of six inches high in residential districts, and 12 inches high in all other districts. The area of the address number shall not be computed as part of the sign face unless it exceeds twice the minimum number height requirement. All such street address numbers shall be displayed in accordance with City or County standards, as applicable.

#### **11.2.7 Changeable Copy on On-Premise Signs**

Except as authorized under paragraph 11.3.1B, Exception for Downtown Tier, changeable copy shall be allowed only on on-premise signs that are: in nonresidential districts, associated with nonresidential uses in the PDR District, or associated with places of worship and institutional uses in any district, subject to the following

- A. No more than 50% of the area of a sign shall be devoted to changeable copy, except for signs for theaters which can devote up to 80% of a sign to changeable copy.
- B. The displayed copy shall not be changed more than eight times in one day, except for time and temperature displays.

### **Sec. 11.3 Prohibited Signs**

[Paragraphs not listed remain unchanged]

#### **11.3.1 Animated or Motion Signs**

##### **B. Exception for Downtown Tier**



In the Downtown Tier, signs with animated, blinking, chasing, flashing, or moving effects, including sign faces that periodically change to show different images or messages shall be allowed through the issuance of a minor special use permit pursuant to Sec. 3.9, Special Use Permit. In addition to the review factors in paragraph 3.9.8B, Review Factors, the following review factors shall also be considered:

1. The sign or signs are spaced so as to not lead to excessive animated signage in an area;
2. There is no negative impact upon traffic safety ; and
3. There is artistic or historic merit or other design qualities that will have a positive impact on the downtown.

## **Sec. 11.5 Signs Allowed in Right-of-Way**

[Paragraphs not listed remain unchanged]

### **11.5.2 Moveable Signs on Sidewalk**

- B.** Within the CN, CG, and MU Districts, the additional requirements must also be met:
3. When the area is located in an historic district overlay, a plan in conformance with the requirements of Sec. 11.8, Elements of Common and Way-Finding Signage Plans, shall be reviewed by the HPC pursuant to Sec. 3.17, Certificate of Appropriateness.

## **Sec. 11.6 Signs Requiring Permits**

[Paragraphs not listed remain unchanged]

### **11.6.2 Standards for Freestanding Signs**

#### **A. Design Districts, and Nonresidential Districts and Uses**

##### **1. Height**

###### **c. Exemption**

A pylon sign up to 40 feet in height for restaurants, hotels, motels, or fuel sales establishments is allowed when:

- (1) The property is within 400 feet of the right-of-way of a controlled access highway;
- (2) The property is either adjacent to, or within 150 feet of, an interchange providing access to the controlled access highway; and
- (3) The property is not located in a Design District or MTC Overlay.

##### **2. Number**

**b.** Except within Design Districts, additional signs are allowed in a development with an approved common signage plan for a street frontage that exceeds 300 feet. If multiple signs are placed on a single street frontage, no individual sign shall exceed 80 square feet in area and there shall be a minimum of 150 feet between the signs.

##### **5. Setback**

- b.** If the sign height is over six feet:

##### **7. Landscaping**

- a. A defined landscaped area shall be provided at the base of the sign. The required landscaped area shall be parallel to the face of the sign. The required landscaped area shall be at least 50 square feet in area. For signs with multiple faces, the landscaped area shall be allocated so that a portion of the required landscaping is located in front of each sign face.

## **8. Medical Center Signs**

Additional freestanding signs for medical facilities containing 250 beds or more shall be allowed subject to the following limitations. Unless explicitly altered below, all other applicable standards shall apply.

### **Sec. 11.7 Landmark Signs**

[Paragraphs not listed remain unchanged]

#### **11.7.1 Privileges**

Signs which have been officially designated as Landmark Signs pursuant to Sec. 3.16, Historic District or Landmark Designation, and which retain those dimensional, locational, and lighting standards that the sign possessed when it received such a designation shall enjoy the following privileges.

- A. Shall be allowed to remain on roofs or exceed height limits found elsewhere in this Article.
- B. Shall be allowed to exceed dimensional limits found elsewhere in this Article.
- C. Shall be allowed to reference a product or business which is not related to the existing business on the property.
- D. Shall not, if the sign is not related to an existing business, have the sign area deducted from the square footage of sign area granted by other standards of this Article.
- E. Shall be allowed to remain in a right-of-way unless it becomes a hazard to traffic.
- F. Shall be allowed to retain its original lighting patterns and materials.

#### **11.7.2 Regulations**

The following regulations shall apply to signs which have been designated as Landmark Signs.

- A. The voluntary removal of a Landmark Sign by an owner shall be allowed.
- B. Alterations to a Landmark Sign shall not be allowed without the issuance of a Certificate of Appropriateness by the Historic Preservation Commission using the criteria used in Sec. 3.17 , Certificate of Appropriateness.

### **Sec. 11.8 Elements of Common and Way-Finding Signage Plans**

[Paragraphs not listed remain unchanged]

#### **11.8.1 Elements of a Common Signage Plan**

### **Sec. 12.1 Improvement Requirements**

[Paragraphs not listed remain unchanged]

#### **12.1.1 General**

##### **B. Mitigation**

The approving authority **can** require on- and off-site improvements to mitigate the impacts of the proposed development.

## **Sec. 12.2 Ingress and Egress Requirements**

[Paragraphs not listed remain unchanged]

### **12.2.1 Dedicated and Publicly Maintained Streets**

Dedicated and publicly maintained streets shall be required for development in all districts except as described in Sec. 12.2.2A, Private Streets or Roads. An unlimited number of building permits can be issued for land parcels adjacent to a public street that is not maintained by either the City or NCDOT. However, no occupancy permits shall be issued unless the street has been accepted for maintenance by the City or NCDOT, as appropriate, or the construction has been certified to be acceptable for maintenance by the City or NCDOT, as appropriate, or a surety instrument has been posted in an amount adequate to complete construction to the satisfaction of the City Public Works Director or NCDOT, or appropriate designees. For streets outside the corporate limits, the applicant shall request NCDOT maintenance as soon as the NCDOT occupancy requirement is met; not more than twice the minimum number of units required for maintenance by NCDOT shall be issued Certificates of Occupancy prior to acceptance for maintenance by NCDOT.

### **12.2.2 Other Forms of Access**

#### **A. Private Streets or Roads**

Private streets or roads are allowed in the following circumstances. Such streets shall be designed and constructed according to Public Works Department or NCDOT standards.

#### **B. Ingress/Egress Easements Other than Private Streets**

##### **2. Other than in the Rural Tier**

##### **a. Ingress/Egress Easements of record**

Lots with ingress/egress easements of record, and developed through use of the easement, as of September 16, 1996, can continue.

##### **b. Driveways**

A driveway shall be allowed for vehicular access to multiple parcels or lots within a townhouse development or shopping center, even if those parcels or lots are individually owned. Any such driveway within a townhouse development shall be located entirely in a common area.

### **12.2.4 External Access Required**

**A.** Except in the Downtown Tier, external motor vehicle access to development shall be provided as indicated below. In determining the number of access points that shall be required, the cumulative impacts of prior developments on the roads shall be considered.

- 1.** For developments with 90 or fewer dwelling units, at least one point of access to the roadway network shall be provided.
- 2.** For developments with 91 or more dwelling units, at least two points of access to the roadway network shall be provided.

**B.** A divided entrance shall count as one point of access.

## **Sec. 12.3 Streets**

[Paragraphs not listed remain unchanged]

### **12.3.1 Street Layout**

Within any proposed development, the proposed street layout shall be coordinated with the existing and planned street system of the surrounding area, with respect to location, alignment, and cross-section. Street design shall satisfy the minimum requirements of the City Public Works Director, City Transportation, NCDOT, or applicable designees.

#### **A. Right-of-Way**

1. A proposed right-of-way shall be of sufficient width to accommodate the required cross section of the roadway. In no case shall the proposed right-of-way be less than the currently adopted standards by the City or NCDOT, as applicable.

#### **C. Intersections**

2. Offset intersections shall only be allowed on streets which cannot be aligned, and shall be separated by a minimum distance determined by the City Transportation Department or NCDOT, as applicable, considering possible signalization, necessary storage, and sight distance, as well as other design constraints.

#### **D. Sight Triangles**

##### **4. Alternative Dimensions**

Alternative dimensions can be approved by the City Transportation Director or designee if the proposed dimensions will function as adequately as or better than standard Ordinance dimensions. The alternative dimensions shall be designed and sealed by a registered engineer and shall consider the following:

- a. Street width;
- b. Posted speed limits;
- c. Stopping position;
- d. Field obstructions;
- e. Horizontal and vertical curves;
- f. Travel direction (one-way vs. two-way streets); and
- g. Traffic control measures (signals, roundabouts, etc.).

#### **F. Stub Outs**

2. Stub outs shall not be required if:
  - a. Adjacent existing development has not made any accommodation for such connections; or
  - b. Adjacent sites are permanently protected from development through conservation easements or ownership that precludes development; or
  - c. The only point of access would require crossing floodplains, steep slopes, or other similar natural features; or
  - d. The existing street pattern in the area of the proposed development already provides for vehicular connections at intervals no greater than one-half mile apart in the Rural Tier, one-quarter mile apart in the Suburban Tier, or one-fifth mile apart in the Urban Tier.

#### **G. Alleys**

Alleys shall be permitted and designed in accordance with design criteria established by the City or NCDOT, as applicable.

**I. Frontage Roads and Access Streets**

Where a development abuts or contains a controlled or limited access street or thoroughfare, whether existing or proposed, an access street or frontage road shall be required.

**12.3.2 Street Names**

- A.** A street name shall be established for a public street or a private street. A street name can be established for a driveway allowed for access within a townhouse development under Sec. 12.2.2B.2.b. above, and for a pedestrian mall under Sec. 6.12.2E.1, Pedestrian Malls, unless the approving authority determines that establishing a name would encourage circumvention of development requirements for private streets, sidewalks, street trees, or other items. Any street name established for a driveway in a townhouse development or for a pedestrian mall shall be included on the subdivision plat or site plan, and a subdivision plat revision or site plan amendment shall be required in order to establish a street name for a driveway within an existing townhouse development or an existing pedestrian mall.

**12.3.3 Street Signs and Markers**

- B.** Signs denoting the beginning and ending of public maintenance shall also be erected and maintained on private streets and shall be required on named driveways allowed for access within townhouse developments under Sec. 12.2.2B.2.b. above that intersect with the public right-of-way. All such signs shall conform to the street name sign requirements of paragraph A above.

**Sec. 12.4 Pedestrian and Bicycle Mobility**

[Paragraphs and tables not listed remain unchanged]

**12.4.1 General**

- A.** Sidewalk, walkway, on-road improvements, and trail systems sufficient to serve both existing and projected pedestrian and cyclist needs shall be labeled on all site and subdivision plans. Such systems shall be designed to connect with all elements within the development, adjacent areas, and transit stops and can include sidewalks along public or private streets, wide outside travel lanes, bike lanes on roadways, and walkways and trails in alternative locations as appropriate. Design, location, dimensions, dedications, easements, and reservations shall conform to applicable City and County policies and plans for sidewalks, bicycle routes, and trails.

**12.4.2 Sidewalk Requirement**

- A.** A public sidewalk shall be provided along public right-of-way as shown in the table below.

Street Type	Rural Tier	Suburban Tier	Urban Tier	Compact Neighborhood/ Downtown Tiers
Freeways	None	None	None	None
Major/Minor Thoroughfare	None	Both Sides	Both Sides	Both Sides
Collectors	None	Both Sides	Both Sides	Both Sides
Nonresidential Street	None	One Side	Both Sides	Both Sides
At least 2,000 daily trips (post development)	None	One Side	One Side	Both Sides
Less than 2,000 daily trips				

(post development)				
Residential Street	None	One Side	One Side	Both Sides
Cul-de-Sac 400 or more linear feet Less than 400 linear feet	None None	One Side None	One Side One Side	Both Sides Both Sides

- B.** Preliminary plats, and developments required to improve existing right-of-way to City or NCDOT standards, as applicable, shall provide public sidewalk within right-of-way pursuant to paragraph 12.4.2A, Sidewalk Requirement.
- C.** For all other development except as exempted pursuant to paragraph 12.4.2D, Exemptions, required sidewalk along the right-of-way frontage of the development site shall be provided, as applicable per paragraph 12.4.2A, through only one of the following methods. The following methods shall not be used in combination.
- 1.** Sidewalk located within the right-of-way or on-site.
    - a. Sidewalk located in right-of-way or on-site shall connect to external sidewalks that extend to the property of the subject development, including connectivity to crosswalks and end of pavement at all adjacent intersections.
    - b. If on-site sidewalks are provided, the sidewalk shall meet the following criteria:
      - (1) The sidewalks shall be located within a public access easement;
      - (2) The maximum distance from the right-of-way, measured to the closest edge of the sidewalk to the right-of-way, shall be 20 feet; and
      - (3) Lighting per Sec. 7.4, Outdoor Lighting, shall be provided either by proposed or existing on-site lighting, or street lights within the right-of-way.
  - 2.** Payment-in lieu (City only)
    - (1) Payment-in-lieu of constructing required sidewalk shall be made at the rate set by the City Council.
    - (2) In order to accommodate future sidewalk, a recorded public access easement shall be provided along frontage of the subject property where no sidewalk is proposed if there is insufficient right-of-way to accommodate a sidewalk.
    - (3) Payment-in-lieu shall not remove the requirement of sidewalk per paragraph 12.4.2A for future development projects, unless exempt per paragraph 12.4.2D, Exemptions.
- D. Exemptions**
- The following shall be exempt from the installation of public sidewalk:
- 1.** Level 1 site plans.
  - 2.** Level 2 site plans under the following circumstances:
    - a. Improvements consist only of unmanned facilities of less than 1,000 square feet, such as storage rooms, mechanical equipment, coolers, or stand-alone ice kiosks;
    - b. Improvements consist only of less than four additional motor vehicle parking spaces;
    - c. Improvements consist only of less than 1,000 square feet of building area; or
    - d. Improvements are documented to solely bring existing facilities up to current health, safety, or building code requirements.

3. Public sidewalk shall not be required when documentation is provided that sidewalk will be provided, through a scheduled and funded City or State roadway project, along the location where sidewalk would otherwise be required.

**E. Alternative Pedestrian Plans**

1. Alternative pedestrian plans that are valid as of June 1, 2013, except for those approved pursuant to previous UC District requirements, shall remain valid and can develop sidewalks and/or walkways pursuant to the plan in lieu of sidewalk requirements of this section.
  - a. If aspects of sidewalk development are not addressed within the plan, Ordinance requirements shall apply.
  - b. Plans shall be updated every four years from the date of previous approval to maintain validity, demonstrating areas of completed sidewalks and/or walkways of the plan.
2. Pedestrian plans approved pursuant to previous UC District requirements shall no longer be valid.

**12.4.3 Standards for Pedestrian and Bicycle Facilities** [Text remains unchanged]

**12.4.4 Dimensions and Design**

**A. Sidewalks**

1. In right-of-way with curb and cutter, sidewalks shall be a minimum of five feet in width with a minimum three-foot grass strip between the sidewalk and curb, unless otherwise specified in this Ordinance. [Alternative widths can be allowed if permitted pursuant to development guidelines maintained by the City Public Works Director, or NCDOT, as applicable.](#)

**C. Shared Facilities**

Rather than utilize separate pedestrian and bicycle facilities, shared facilities with a 10 foot minimum width are allowed in any area where both sidewalks and bicycle facilities are required, unless separate facilities have been previously developed or approved in the area. Shared facilities of that same width shall be required, however, following the initial installation of shared facilities in the area.

**Sec. 12.5 Recreation Land**

[Paragraphs not listed remain unchanged]

**12.5.2 Dedication, Impact Fees, and Payment-in-Lieu**

**A. In the Rural Tier**

2. One of the following shall be required:

**B. Requirements in all Tiers other than the Rural Tier**

3. The following, individually or in combination, shall be required based upon jurisdiction and whether the development is located on the Durham Trails and Greenways Master Plan or the Durham Comprehensive Bicycle Transportation Plan:

**Sec. 12.6 Railroad Corridors**

[Paragraphs not listed remain unchanged]

**12.6.3** Unless agreements have been established that prohibit a railroad crossing, the following shall apply:

- A. Crossing of the railroad right-of-way shall be permitted for major and minor thoroughfares designated on an adopted thoroughfare plan.
- B. No additional at-grade crossings of the corridor by streets or drives shall be allowed, unless a minor special use permit pursuant to Sec. 3.9, Special Use Permit, is approved. In addition to the findings specified in paragraph 3.9.8A, General Findings, the Board of Adjustment shall also find that extreme hardship would result to the property owner due to:
  - 1. Lack of access; or
  - 2. Design constraints that severely limit the development potential of the property.

#### **Sec. 13.4 Block Standards**

[Paragraphs not listed remain unchanged]

**13.4.2** Subdivision of property greater than two contiguous acres in size within Design Districts shall meet the following block standards:

- B. Each block shall be a minimum of one acre and a maximum of 3.5 acres in size, except that a block that is greater than 3.5 acres but less than 5 acres in size shall be allowed if a pedestrian mall under paragraph 6.12.2E.1, Pedestrian Mall Standards, or a publicly accessible alley is provided in lieu of right-of-way to create de facto blocks that meet the size requirements of this section;
- E. An existing right-of-way shall not be closed without providing an alternate right-of-way that accomplishes the same or similar connectivity.

#### **Sec. 13.5 Lot Standards**

[Paragraphs not listed remain unchanged]

##### **13.5.1 Access**

- A. Every buildable lot shall abut a public street, a private street, or a driveway allowed for access within a townhouse development or shopping center under Sec. 12.2.2B.2.b above, capable of providing access to a lot.

##### **13.5.3 Double Frontage**

- B. Residential lots adjacent to a major or minor thoroughfare shall have vehicular access from the local street only.

##### **13.5.6 Lot Numbering**

All lots shall be numbered consecutively within each block. Lot numbering can be cumulative throughout the subdivision if the numbering continues from block to block in a uniform manner. Any lots being resubdivided shall be consecutively numbered beginning with the last available number in the existing block or subdivision.

#### **Sec. 13.6 Street Connectivity Requirements**

[Paragraphs not listed remain unchanged]

##### **13.6.1 Connectivity Defined**

##### **B. Connectivity in Design Districts**



2. Rights-of-way shall intersect at right angles, unless otherwise allowed pursuant to design standards maintained by the City Transportation Director, or NCDOT, as applicable .

### **13.6.2 Required Ratio**

#### **A. Street Network**

1. The street network for any subdivision with internal roads or access to any public road shall achieve a minimum connectivity ratio of 1.40 in all tiers except the Rural and Downtown Tiers, measured within the subdivision.
2. Within the Rural Tier, the street network for any subdivision with internal roads or access to any public road shall achieve a minimum connectivity ratio of 1.15, measured within the subdivision.

## **Sec. 14.2 Nonconforming Uses**

[Paragraphs not listed remain unchanged]

### **14.2.1 Limitations on Nonconforming Uses**

- A. Floor area shall not be enlarged, except for the exceptions specified in Sec. 14.4.1B;
- B. Residential density shall not be increased;
- C. Lot coverage shall not be increased;
- D. The nonconforming use shall not expand in degree, frequency, intensity, or impact of the activity;
- E. The nonconforming use shall not be relocated to another portion of a lot, except as allowed in the City pursuant to provisions authorizing the issuance of special use permits for certain nonconforming uses, described below; and,
- F. The nonconforming use shall not be changed to a different nonconforming use, except as allowed in the City pursuant to provisions authorizing the issuance of special use permits for certain nonconforming uses, described below.

### **14.2.2 Changes to Nonconforming Uses (City Only)**

- A. A single-family residential nonconforming use can be expanded one time during its existence through enlargement of the floor area of the building associated with the nonconforming use by a maximum of 10% or 500 square feet, whichever is greater, and an associated increase in lot coverage, provided that such expansion complies with all development standards of the established zoning district in which the nonconforming use is located at the time of expansion.

### **14.2.3 Abandonment**

A nonconforming use can be changed at any time to a use that conforms to a use allowed by the zoning district. A nonconforming use shall not be re-established if it is:

### **14.2.4 Damage/Destruction**

A nonconforming use other than a single-family use that is contained in a structure that is damaged or partially destroyed can only be reestablished if the damage is less than 50% of the appraised tax value, a completed building permit is issued within 12 months of damage or partial destruction, and construction is completed within 12 months of issuance of the permit. A single-family nonconforming use can be reestablished in any event. No new structure may be constructed to be used as an accessory structure to a nonconforming use.

### **14.2.5 Home Occupations**

Nonconforming home occupations for which receipt of a home occupation permit prior to adoption of this Ordinance that can be documented [can](#) continue only for as long as the holder of the original permit resides on the property and operates the use.

### **Sec. 14.3 Nonconforming Lots**

[Paragraphs not listed remain unchanged]

#### **14.3.3 Lots Other Than Single-Family Lots**

Where otherwise allowed by this Ordinance, a structure other than a single-family structure may be constructed on a legal nonconforming lot only upon the issuance of a minor special use permit by the Board of Adjustment in accordance with Sec. 3.9, Special Use Permit.

#### **14.3.4 Lots within Special Flood Hazard Areas and Future Conditions Flood Hazard Areas**

Nonconforming lots within Special Flood Hazard Areas or Future Conditions Flood Hazard Areas [shall](#) only be developed pursuant to Sec. 8.4.4, Development in Special Flood Hazard Areas and Future Conditions Flood Hazard Areas, in addition to the requirements of this section.

### **Sec. 14.4 Nonconforming Improvements and Structures**

[Paragraphs not listed remain unchanged]

#### **14.4.1 Nonconforming Buildings or Structures**

- B.** Additions to, or reconstruction of, nonconforming buildings and structures not located within Special Flood Hazard Areas or Future Conditions Flood Hazard Areas shall require approval of a minor special use permit pursuant to Sec. 3.9, Special Use Permit, unless exempted pursuant to paragraph 3, below.
- 1.** No enlargement or reconstruction shall have the effect of increasing the degree or extent of a nonconforming feature.
    - a.** Additions that are proposed between the minimum yard requirement and the existing building line, or are consistent with the existing height, shall not be considered to increase the degree or extent of the nonconformity.
    - b.** An addition shall be considered to increase the nonconformity if it extends further into required yards than the existing encroachment.
  - 2.** No enlargement or reconstruction shall create new nonconformities or encroachments, unless a variance is approved pursuant to Sec. 3.14, Variance.
  - 3.** The following additions and reconstruction, not located within Special Flood Hazard Areas or Future Conditions Flood Hazard Areas, are exempt from a minor special use permit requirement:
    - a.** Improvements that allow existing buildings to meet local health, sanitary, or safety code requirements or that are necessary to ensure safe living or occupancy conditions;
    - b.** Improvements that require a certificate of appropriateness pursuant to Sec. 3.17, Certificate of Appropriateness;
    - c.** Additions of any size that:
      - (1) [Comply with all current ordinance requirements, and proposed height is consistent with or less than the existing height of the structure; or](#)
      - (2) [Brings the entire structure into closer conformance with current ordinance requirements;](#)

- d. Additions, with a maximum increase in square footage of 10%, that are proposed between the minimum yard requirement and the existing building encroachment line;
- e. Reconstruction of the nonconforming structure that is within the original building footprint and is consistent with the height of the original structure. Proposed additional square footage shall meet the parameters of paragraphs c or d above, as applicable, to be exempt from the requirement of a minor special use permit.
- f. Reconstruction, enlargement of, or improvements to a nonconforming structure that is part of a housing program initiated by or supervised by the City, County, or an entity created by the City, County, or State of North Carolina, as long as the degree or extent of the nonconforming feature is not increased.

**C. Time-Period Limitations for Reconstruction of Nonconforming Structures**

- 1. Single-family or duplex structures, and associated accessory structures, can be re-built within the original building footprints as long as a certificate of compliance for the new structure is issued within 36 months of the date of demolition or destruction of the original structure. Otherwise, current ordinance requirements shall be met. The Planning Director can issue an extension for up to 12 months, as long as documentation is provided that demonstrates due diligence has been made to re-build the structure.
- 2. Multifamily and non-residential structures can be re-built within the original footprints as long as a certificate of compliance for the new building is issued within 36 months of the date of destruction or demolition. Otherwise, current ordinance requirements shall be met.

**14.4.3 Construction on, Redevelopment of, and other Improvements to Nonconforming Development Projects**

- A. If the construction affects discrete portions of the development project those portions can be considered without regard to compliance of the entire project with the Ordinance. In such case, current Ordinance requirements shall be applied to the improvements for which approval is requested to the maximum degree reasonable in light of the fact that the development project as a whole does not comply with current requirements; and

**Sec. 15.3 Remedies; Enforcement Action**

[Paragraphs not listed remain unchanged]

**15.3.2 Options for Remedying a Violation**

- C. Where appropriate, request a variance to the provisions of this Ordinance, in accordance with Sec. 3.14, Variance. Failure to obtain the variance shall mean that the violation has not been corrected.
- D. Amend the text of this Ordinance to eliminate the violation, in accordance with Sec. 3.19, Text Amendment. Failure to obtain the approval of the text change shall mean that the violation has not been corrected.

## Sec. 16.2 Abbreviations

[Abbreviations not listed remain unchanged]

## Sec. 16.3 Defined Terms

[Definitions not listed remain unchanged]

**Agricultural Uses:** Land used as pasture or in the commercial production of crops, horticultural products, fish hatcheries or aquaculture. Also for the purposes of this Ordinance, the keeping of livestock for commercial or noncommercial purposes is defined as an agricultural use. Livestock includes but is not limited to poultry and hoofed animals such as cattle, horses, goats, sheep and swine; however, swine commonly referred to as Miniature, Vietnamese or Oriental Pot-Bellied pigs (*sus scroda vittatus*) shall not be considered livestock if the animals are no more than 18 inches in height and the owner has proof of registry with the International Potbellied Pig Registry (IPPR). No more than two such Potbellied Pigs may be kept at any household to qualify for this definition. Also included in this definition of agricultural uses are agricultural accessory buildings, and sales of agricultural products grown or raised on the premises. Not included in this definition are any use conducted pursuant to a valid permit issued under Sec. 3.22, Limited Agriculture Permit, apiculture, the commercial slaughtering of animals for marketing, and farm tenant dwellings.

**Airport:** A place where aircraft [can](#) takeoff and land, be repaired, take on or discharge passengers or cargo, be stored or refueled.

**Anti-Climbing Device:** A piece or pieces of equipment which are either attached to antenna supporting structure, or which are free-standing and are designed to prevent people from climbing the structure. These devices [can](#) include but are not limited to fine mesh wrap around structure legs, “squirrel-cones”, the removal of climbing pegs on monopole structures, or other approved devices, but excluding the use of barbed or razor wire.

**Boarding House:** A building, other than a hotel, rooming house, or bed and breakfast inn, containing at least four, but not more than nine guest rooms. At least one meal is provided to guests. Individual guest rooms [shall](#) not contain kitchens.

**Building Envelope:** The area between all required setbacks within which a structure [can](#) be located.

**Diet House or Diet Facility:** A facility housing a dietary treatment program supervised by trained professionals which [can](#) also contain temporary living quarters for clients.

**Distance Learning Center:** An educational facility where teaching and learning is specifically designed to be carried out remotely, typically by using electronic communication.

**Floodplain Administrator:** The individual appointed to administer and enforce the floodplain management regulations. The Inspections Director or designee serves as the Floodplain Administrator pursuant to Sec. 3.21.2, Floodplain Administrator.

**Golf Course:** An area laid out for playing golf, which [can](#) include some or all of the following accessory facilities: clubhouses, putting greens, swimming and tennis facilities, concessions for food and supplies. Driving ranges [can](#) also be included, unless specifically excluded by provisions of this Ordinance. This definition does not include Par 3 or miniature golf.

**Market Value:** The building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value [can](#) be established by independent

certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

**Podium Height:** The initial height that a building **can** reach at the build-to line before upper story step-backs are required in a design district.

**Public Safety and/or Nuisance:** When used in reference to Sec. 3.21, Floodplain Development Permit and Sec. 8.4, Floodplain and Flood Damage Protection Standards, means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

**Rooming House:** A building other than a motel, hotel, bed and breakfast inn or boarding house, containing at least four, but not more than nine guest rooms. A rooming house **shall** not contain kitchen facilities within the guest rooms, and no meals are served to guests.

**Setback:** The minimum distance between a property line and a building or structure. Unless specifically noted in the text, ground level parking and security gatehouses **can** be located within the setback area.

**Specimen Tree:** Any evergreen canopy tree 18 inches dbh or greater, any deciduous canopy tree 12 inches dbh or greater and any understory tree (deciduous or evergreen) eight inches dbh or greater, except any tree listed as a non-native invasive plant by the US Forest Service or prohibited pursuant to the *Landscape Manual for Durham, North Carolina*, also referred to as the *Landscape Manual*.

**Thoroughfare, Minor:** Streets that perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system. Such streets **can** be used to supplement the major thoroughfare system by facilitating minor through movements and **can** also serve abutting property. They are identified on the adopted Thoroughfare Plan.

**Solid Waste Facilities:** Stationary solid waste collection containers, yard waste containers, recycling containers and roll-out containers for the above.

### **PART 3**

For all ordinance references within the Unified Development Ordinance that contain at least two decimal points, the terms “Sec.” or “Section” shall be replaced with the term “paragraph.”

### **PART 4**

That the Unified Development Ordinance shall be renumbered, and the Table of Contents shall be renumbered and retitled, as necessary, to accommodate these changes and clarifications.

### **PART 5**

That this amendment of the Unified Development Ordinance shall become effective on June 1, 2013. Any site plan or plat submitted prior to the effective date of this ordinance may be reviewed and approved under the regulations in place at the time of submittal.

### **PART 6**

For site plans or plats submitted prior to the effective date, any actions designated for the Development Review Board (DRB) shall be transferred to the authority of the Planning Director,

or designee. This shall not apply to any site plan or plat remanded to the DRB by the Board of Adjustment prior to the effective date of this Ordinance. In such cases, the DRB will remain in effect and maintain the authority given to it by the regulations in place at the time of initial site plan submittal.